

Gary Lampert
October 30, 2023

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN DIVISION

Chapter 7 Case No 1-21-41803-JMM
Adversary No. 1-21-01180-JMM

-----X
In re

DAVID CAMEO,
Debtor.

-----X
AMAZON.COM SERVICES, LLC
Plaintiff,

-against-

DAVID CAMEO, an individual,
Defendant.

-----X
DATE: October 30, 2023
TIME: 10:00 a.m.

REMOTE VIDEOTAPED DEPOSITION of
GARY LAMPERT, taken by the Plaintiff,
pursuant to a Subpoena and to the Federal
Rules of Civil Procedure, held remotely via
Zoom Videoconference, before Suzanne
Pastor, a Notary Public of the State of New
York.

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1 A P P E A R A N C E S:
(All appearances via Zoom)

2

3 DAVID WRIGHT TREMAINE, LLP
Attorneys for the Plaintiff
4 1251 Avenue of the Americas
21st Floor
5 New York, New York 10020-1104

6 BY: JOHN M. MAGLIERY, ESQ.
212.603.6444
johnmagliery@dwt.com

7 AND: BRITTNI HAMILTON, ESQ.
213.655.9649
8 brittnihamilton@dwt.com

9

10 MORRIS & TENENBAUM
11 Attorneys for the Defendant and Witness
87 Walker Street, 2nd Floor
12 New York, New York 10013
BY: BRIAN J. HUFNAGEL, ESQ.
13 212.620.0938

14 -and-

15 LAW OFFICE OF LUST & LEONOV
75 Maiden Lane
16 New York, New York 10038
BY: ROMAN LEONOV, ESQ.
17 212.518.1503
(Via Telephone)

18

19

20

ALSO PRESENT:

21

JOSE RIVERA, Videographer
22 U.S. Legal Support

23

* *

24

25

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1 THE VIDEOGRAPHER: We are now
2 on record. This is the remote video
3 recorded deposition of Gary Lampert
4 being taken by counsel for the
5 plaintiff.

6 Today is Monday, October 30,
7 2023. The time is now 10:09 a.m. in
8 the Eastern Time Zone.

9 We are here in the matter of
10 Amazon.com Services, LLC versus David
11 Cameo and individuals. My name is
12 Jose Rivera, remote video technician
13 on behalf of U.S. Legal Support.

14 At this time will the reporter,
15 Sue Pastor, on behalf of U.S. Legal
16 Support please enter the statement
17 for remote proceedings into the
18 record, after which the court
19 reporter will swear in the witness.

20 THE REPORTER: Good morning.
21 The attorneys participating in this
22 deposition acknowledge that I am not
23 physically present in the deposition
24 room and that I will be reporting
25 this deposition remotely.

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1 They further acknowledge that
2 in lieu of an oath administered in
3 person, I will place the witness
4 under penalty of perjury.

5 The parties and their counsel
6 consent to this arrangement and waive
7 any objections to this manner of
8 reporting. Please indicate your
9 agreement by stating your name and
10 your agreement on the record.

11 MR. MAGLIERY: John Magliery,
12 we agree, for the plaintiff.

13 MR. HUFNAGEL: Brian Hufnagel
14 of Morris & Tannenbaum for the
15 witness, we agree as well.

16 THE REPORTER: Mr. Lampert,
17 please raise your right hand.

18 Do you swear or affirm that the
19 testimony you are about to give will
20 be the truth, the whole truth, and
21 nothing but the truth?

22 THE WITNESS: Yes.

23 THE REPORTER: Thank you.

24 Counsel, you're all set.

25 MR. MAGLIERY: Thank you.

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1 EXAMINATION

2 BY MR. MAGLIERY:

3 Q. Good morning, Mr. Lampert. As
4 you just heard, I am one of the attorneys
5 for Amazon.com Services LLC in the
6 adversary proceeding and bankruptcy against
7 David Cameo.

8 I understand you testified in
9 your past, but I'll still ask you to
10 confirm that you understand the oath you've
11 just taken is the same one you would give
12 if you were testifying in a court of law.

13 A. Yes.

14 Q. Will you agree to tell me if
15 you don't understand any of my questions so
16 I can rephrase them?

17 A. Yes.

18 Q. Are you aware of any condition
19 that would affect your memory today?

20 A. No.

21 Q. Have you ever been deposed
22 before?

23 A. Yes.

24 Q. Approximately how many times?

25 A. Probably around 10 times -- 10

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1 to 15 times.

2 Q. And do you recall when you gave
3 the last of those depositions before this
4 one?

5 A. My last deposition was several
6 years ago. I've had a -- I'd have to check
7 my records for the exact date, but it was
8 at least four years ago.

9 Q. Okay. And are you currently
10 employed, sir?

11 A. Yes, I am self employed.

12 Q. What's the name of your firm?

13 A. Gary R. Lampert, CPA.

14 Q. And does that company perform
15 solely forensic services or do you do other
16 accounting services as well?

17 A. Solely forensic and bankruptcy
18 services.

19 Q. Was there a time in your past
20 when you performed other types of
21 accounting services?

22 A. Yes.

23 Q. And how long ago was that?

24 A. Prior to 1990.

25 Q. I see. And has your exclusive

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1 employment or business after 1990 been
2 forensic and bankruptcy accounting
3 services?

4 A. Since 1990 it's been primarily
5 bankruptcy and forensic services.

6 Q. I don't mean to be pedantic,
7 but when you say "primarily," were there
8 other occasions when you performed other
9 services as well?

10 A. No, not that I recall.

11 Q. And did you have your firm
12 since 1990?

13 A. No. My firm started in 2005.

14 Q. Are you the sole owner of your
15 firm?

16 A. Yes.

17 Q. Any other employees of your
18 firm?

19 A. Yes.

20 Q. How many?

21 A. One.

22 Q. Is that person an accountant?

23 A. No.

24 Q. Is it an administrative person?

25 A. She's a paraprofessional.

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1 Q. How long has she been with you?

2 A. Since 2005.

3 Q. What's her name?

4 A. Nora McKinney.

5 Q. Did she aid or assist you in
6 your engagement on behalf of David Cameo?

7 A. Yes.

8 Q. By whom were you employed
9 before 2005?

10 A. In 1990 to approximately 2005 I
11 was employed by Eli Rossman, CPA.

12 Q. Approximately how many other
13 accountants were employed by that firm?

14 A. Approximately five.

15 Q. Before 1990 what did you do
16 professionally?

17 A. Prior to Eli Rossman I was a
18 controller for a firm in Long Island for
19 about six months, and prior to that I
20 worked for Seymour Schneidman & Associates,
21 which is an accounting firm in Manhattan,
22 from -- for a couple years. I don't
23 remember the exact dates.

24 And prior to that I worked for
25 an accounting firm called Tanten &

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1 Shavelson from approximately 1980 to
2 approximately 1988.

3 Q. Okay. Have you been an
4 accountant since 1980?

5 A. Yes.

6 Q. When did you become a certified
7 public accountant?

8 A. In 1982.

9 Q. Just to complete the history,
10 sir, where did you go to school for your
11 college or postgraduate education?

12 A. I got my bachelor's degree at
13 Pace University, and I got a Master's in
14 taxation at CW Post.

15 Q. Okay, great. Does your current
16 firm maintain business offices?

17 A. Yes.

18 Q. Where are those located?

19 A. I have one office in -- the
20 address is 100 Merrick Road, Rockville
21 Centre in New York 11570.

22 Q. Is that in Nassau County?

23 A. Yes.

24 Q. And do you reside in Nassau
25 County?

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1 A. Yes.

2 Q. Have you ever been a party to a
3 lawsuit either personally or the Gary
4 Lampert, CPA company?

5 A. Personally I was involved in my
6 divorce proceeding.

7 Q. Mm-hmm.

8 A. That's the only lawsuit that I
9 am aware of.

10 Q. All right, let's go ahead and
11 mark our first exhibit, which is going to
12 be familiar to you. It's your report.
13 Bear with me.

14 Lampert, and for that matter
15 Mr. Hufnagel, the way we have shared
16 exhibits is to place them into the chat
17 box.

18 So Mr. Lampert, if you would
19 click on the chat box, a white side bar
20 should open on your computer.

21 MR. HUFNAGEL: Hold on one
22 second. It's asking me to download
23 the document, not to open it.

24 Q. Yes, so I was just going to
25 explain when you click on it, it will give

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1 you an option to download. You could pick
2 a folder, you could call it "Cameo
3 deposition." All the documents will end up
4 in that folder and you will have them for
5 the future as well.

6 This document, for the court
7 reporter, I'm continuing the numbering, and
8 it's Plaintiff's Exhibit 106, the report of
9 Gary Lampert.

10 (Whereupon, Rebuttal Report of
11 Mr. Lampert was marked as Plaintiff's
12 Exhibit 106 for identification as of
13 this date by the Reporter.)

14 MR. HUFNAGEL: What was the
15 number you have on this again?

16 MR. MAGLIERY: Plaintiff's
17 Exhibit 106. And the file should say
18 that, I hope.

19 MR. HUFNAGEL: 106?

20 MR. MAGLIERY: 106.

21 Is it coming through for you?

22 MR. HUFNAGEL: Yes. We also
23 have a copy of this particular
24 exhibit. So I'm going to hand the
25 witness a printed copy just for ease

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1 of review. But we will of course, if
2 needed, review the Adobe version as
3 we go through this. Thank you.

4 Q. The official one will be the
5 one I put in the chat box, but I put the
6 entire report with exhibits, so I think we
7 should be looking at the same thing.

8 MR. HUFNAGEL: You can look at
9 this one unless there's a difference.
10 We'll look at both. We'll look at
11 both, John.

12 MR. MAGLIERY: I'm sure the
13 paper one will be just fine. I put
14 the full -- as I said, the full
15 report.

16 Q. Mr. Lampert, could we turn in
17 the report to your CV, which is Exhibit A.

18 A. Okay.

19 Q. In how many cases do you think
20 you've been retained to testify as an
21 expert in your career? And I'm making the
22 distinction between your services in
23 bankruptcy as an examiner. So let's focus
24 first on forensic work.

25 A. For the forensic, we'll call it

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1 the forensic non-bankruptcy work if that's
2 okay.

3 Q. That's fine.

4 A. For the forensic work I have
5 not testified in any matter. I was
6 retained and there was a possibility of
7 providing testimony, but I did not provide
8 any testimony in any of my non-bankruptcy
9 forensic work.

10 Q. Okay, and so how many
11 non-bankruptcy forensic engagements have
12 there been?

13 A. I don't recall exactly. I'd
14 have to check my records to give you the
15 number.

16 Q. Is it less than five?

17 A. I don't recall.

18 Q. And then in bankruptcy, how
19 many times have you been retained by a
20 party in bankruptcy to provide expert or
21 accounting services?

22 A. I've been retained in well over
23 500 cases in bankruptcy. They all didn't
24 require any testimony. Usually there's
25 always the possibility of providing

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1 testimony in most of the cases.

2 Q. In how many cases in bankruptcy
3 did you provide testimony?

4 A. I don't recall the exact
5 number. I'll have to check my records.

6 Q. Do you think that's less than
7 five?

8 A. I think it's more than five.

9 Q. Can you give me an order of
10 magnitude? Is it ten or a hundred or a
11 thousand?

12 A. I'd really -- it's probably
13 more than ten, but I'd like to check my
14 records.

15 Q. In those bankruptcy retentions,
16 how often by proportion were you retained
17 by the trustee as opposed to another party?

18 A. Most of the times I was
19 retained by the trustee.

20 Q. Would you say it was -- again,
21 I'm not looking for an exact number, but
22 was it 90 percent of the time or 75 percent
23 of the time or just the majority of the
24 time?

25 A. Are you just referring to the

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1 cases where I provided testimony, or all
2 the cases?

3 Q. All the cases. I'm sorry,
4 thanks for that clarification.

5 A. Probably at least 90 percent of
6 the time I was retained by the trustee.

7 Q. How many times have you been
8 retained by the debtor before?

9 A. I don't recall the exact
10 number. I'd have to check my records.

11 Q. Have you ever been retained by
12 the debtor before?

13 A. Yes.

14 Q. Do you think it's less than
15 five times?

16 A. I don't remember. It's
17 probably more than five times, but I have
18 to check my records.

19 Q. When was your last professional
20 engagement before this one?

21 A. I've been retained in
22 bankruptcy cases during the past few years,
23 so I don't --

24 Q. Okay.

25 A. I don't recall the exact dates.

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1 Q. That's fine. And when was your
2 last engagement for a debtor before this
3 one?

4 A. I don't recall. I'd have to
5 check my records.

6 Q. Do you think it was more than a
7 year ago?

8 A. I don't recall. I'd have to
9 check.

10 Q. Okay, what records would you
11 check to answer all these questions about
12 your prior engagements?

13 A. I'd check my case files and
14 determine the dates that I commenced
15 working on the cases.

16 Q. Okay.

17 All right, in your report on
18 page 3, Section 3, it's called "Recent
19 testimony," you say, "During the last four
20 years I have not testified as an expert
21 witness as an accountant at trial or at
22 deposition," is that correct?

23 A. Yes.

24 Q. When was the last time you gave
25 testimony as either a trial witness or a

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1 deponent in any case?

2 A. I don't remember the last date.

3 I'd have to check my records.

4 Q. How did you determine that four
5 years was the period that you report in
6 this "recent testimony" section?

7 A. Well, I know I haven't
8 testified in the last four years. So my
9 testimony -- the last time I testified
10 would go back more than four years.

11 Q. Do you remember if it was five
12 years ago or ten years ago? Do you have
13 any approximation of the last time you gave
14 testimony?

15 A. It was several years ago. I'd
16 have to go back and check my records.

17 Q. It was between five and ten
18 years ago?

19 A. I really don't recall. I'd
20 have to go back and check my records.

21 Q. Have you been deposed before?

22 A. Yes.

23 Q. How many times?

24 A. I'd say approximately 10 to 20
25 times. I don't have the exact number.

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1 Q. And have you ever given
2 testimony at a trial or hearing before?

3 A. Yes.

4 Q. And how many times have you
5 done that?

6 A. I'd have to check. I don't
7 recall the exact number.

8 Q. Fewer than the number of times
9 you gave deposition testimony though,
10 right?

11 A. Excuse me?

12 Q. It was fewer than the number of
13 times you gave deposition testimony?

14 A. Yes.

15 Q. Okay.

16 MR. MAGLIERY: Counsel, we'll
17 call for the production of at least a
18 list of every case in which
19 Mr. Lampert has given testimony. I
20 think that's something we're entitled
21 to.

22 I will forgo the list of all
23 500 cases in which he's been retained
24 though. I can understand that being
25 burdensome.

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1 MR. HUFNAGEL: Restate that.

2 So a list of all cases where he's
3 testified?

4 MR. MAGLIERY: Correct.

5 MR. HUFNAGEL: And what is the
6 time period that you are requesting?

7 MR. MAGLIERY: Well, if it's 10
8 to 20 cases, that doesn't seem to be
9 overly burdensome, so I'd ask for all
10 of them. We can debate it off the
11 record. I'm just putting the request
12 in.

13 MR. HUFNAGEL: Right, that's --

14 Q. Mr. Hufnagel and I will later
15 sort it out. We don't need to worry about
16 it this second.

17 Have you ever been the subject
18 of a challenge about your qualifications as
19 an expert in any case?

20 A. Not that I recall.

21 Q. What did you do to prepare for
22 today's deposition?

23 A. I reviewed my report, the
24 Amazon expert report, the deposition
25 transcripts of Mr. Cameo -- when I refer to

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1 "Mr. Cameo" I'm referring to David Cameo,
2 Ari Cameo, Shoshana Ostran, general ledgers
3 and other documents that were produced in
4 the case.

5 Q. Is that what you did to prepare
6 your report or prepare to today's
7 deposition?

8 A. Both. Well, when I prepared by
9 report I didn't look at my report yet
10 because it was not prepared.

11 Q. Fair enough.

12 A. But I did review the documents
13 that I mentioned in addition to perhaps
14 other documents.

15 Q. Can you remember any other
16 documents other than the ones you listed
17 that you reviewed?

18 A. That I reviewed in connection
19 with my testimony or in connection with my
20 report?

21 Q. Let's start with the testimony.
22 Because I think there's a list in the
23 report of what you looked at. So I'm
24 asking if you looked at anything else to
25 prepare for today.

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1 A. Other than the documents that I
2 just mentioned?

3 Q. Yes.

4 A. I looked at some tax returns.

5 Q. Okay, and did you meet with
6 counsel?

7 A. Excuse me?

8 Q. Did you meet with counsel to
9 prepare for the deposition?

10 A. No. I spoke with them over the
11 phone.

12 Q. Okay, and how many times did
13 you speak with them?

14 A. Once.

15 Q. And was that --

16 A. This is in connection with
17 the -- this is just in connection with the
18 testimony, is that correct?

19 Q. Correct, correct. And was that
20 Mr. Hufnagel or Mr. Leonov or both of them?

21 A. It was both.

22 Q. Do you remember when that call
23 took place?

24 A. A few days ago.

25 Q. Do you remember how long it

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1 took?

2 A. Less than an hour. I don't
3 recall the exact time.

4 Q. Now, Mr. Lampert, let's go to
5 the beginning of the report if we could.
6 Page 1, "Introduction." You say that you
7 were retained by David Cameo in this
8 matter, I'm paraphrasing, and you say, "I
9 was asked by Cameo to review the report of
10 the expert retained by Amazon.com Services,
11 LLC in the subject matter and prepare a
12 report to rebut the opinions and
13 conclusions within the report as
14 necessary." Do you see that?

15 A. Yes.

16 Q. Do you apply any industry
17 standards that exist for that kind of
18 examination?

19 MR. HUFNAGEL: Can you restate
20 that question? I'm confused myself.
21 So please --

22 Q. I'll even expand it a little.
23 I'm going to restate it --

24 MR. HUFNAGEL: Maybe do one at
25 a time without expanding it would be

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1 fine. Thank you.

2 Q. I'll ask my next question.

3 I'll withdraw the question and ask another
4 one.

5 Are there any industry
6 standards that relate to the performance of
7 the kind of examination you undertook?

8 A. I based it on my knowledge and
9 past experience. I don't recall the
10 industry standards.

11 Q. You list on the front page of
12 your report and in your CV that you have at
13 least I think four qualifications. The
14 first one is CPA.

15 Are there any standards that
16 apply when a CPA conducts an examination to
17 rebut an expert report?

18 A. I don't recall.

19 Q. What is a -- excuse me.

20 A. I'm sorry, go ahead.

21 Q. I think I might have
22 interrupted you, and I apologize.

23 What is a CFF?

24 A. CFF is a certification in
25 financial forensics.

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1 Q. Okay, and do you know whether
2 there's any guidance or standards that
3 apply for a CFF?

4 A. I don't recall.

5 Q. What year did you earn your
6 CFF?

7 A. Several years ago. I don't
8 recall the exact date. I'd have to check
9 my records.

10 Q. You've been an accountant for
11 approximately 43 years, right?

12 A. Yes.

13 Q. And was it toward the beginning
14 of your career or the middle, or was it
15 recent that you got a CFF accreditation or
16 certification?

17 A. It was not toward the beginning
18 because they didn't have the certification.
19 When they came out with the certification a
20 number of years ago, that's when I obtained
21 it. I just don't recall the exact year.

22 Q. Okay, and did you have to take
23 some kind of courses to obtain that
24 certification?

25 A. No.

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1 Q. Was it a self-study
2 certification?

3 A. No. It was based on
4 experience.

5 Q. Okay, what about a CFE, what is
6 that?

7 A. A certified fraud examiner.

8 Q. And again, I'll ask if you can
9 recall when you obtained that
10 certification.

11 A. It was a few years ago. I
12 don't remember the exact date.

13 Q. Can you -- again, can you try
14 to put it in the context of the beginning
15 or middle or recently parts of your career?

16 A. Probably within the last five
17 years.

18 Q. What about that one, how did
19 you earn that one?

20 A. I took an examination. And in
21 addition to the examination you had to have
22 experience in the related fields.

23 Q. And again, by proportion of
24 your engagements, your professional
25 engagements, how many would you say involve

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1 the skills that are connected with a
2 certified fraud examiner?

3 A. It could be -- most -- it could
4 be in every bankruptcy case that I have
5 that may require the investigation into the
6 transactions. So it could be every case; I
7 just don't know until I'm working on a
8 particular matter.

9 Q. Okay. Is it fair to say that
10 you're frequently called upon to use your
11 skills as a certified fraud examiner?

12 A. Yes.

13 Q. What is a CIRA? What is that
14 accreditation?

15 A. That's certified insolvency and
16 restructure advisor.

17 Q. Can you briefly describe what
18 that certificate is?

19 A. That's a certificate that's
20 provided by the association of the AIRA
21 that provides insolvency and restructure
22 issues.

23 Q. Do you recall when you earned
24 that certificate, approximately?

25 A. Probably between the last five

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1 or ten years.

2 Q. All right, back to the
3 introduction of your report, which is page
4 1, tell me when you have that.

5 A. Yes, I have it.

6 Q. Great. You say that you
7 reviewed and analyzed the expert report of
8 Mr. Bracco dated August 7, 2023, financial
9 records of several entities, and deposition
10 transcripts of David Cameo, Ari Cameo and
11 Shoshana Ostran. Do you see that?

12 A. Yes.

13 Q. In number 3 you say, "In
14 addition, I had communications with Cameo,
15 his counsel and his accountant." Do you
16 see that?

17 A. Yes.

18 Q. Who is the accountant to whom
19 you refer there?

20 A. I don't recall his name. His
21 name is Mark. I don't recall his last
22 name.

23 Q. And do you remember when you
24 spoke to Mark?

25 A. I never spoke with Mark.

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1 Q. How did you communicate with
2 him?

3 A. Through e-mails.

4 Q. Do you recall, again,
5 approximately how many e-mails you
6 exchanged with Mark?

7 A. There were a few, probably less
8 than ten e-mails.

9 Q. And what about with Cameo
10 himself, without telling me what you said,
11 just please tell me did you ever speak with
12 him or was that by e-mail as well?

13 A. I spoke to Mr. Cameo over the
14 phone probably less than five times.

15 Q. Did you also have -- excuse me.

16 A. And I had -- and I sent e-mails
17 to him. There were e-mail communications
18 but I don't recall the number.

19 Q. Okay --

20 A. I'd have to check.

21 Q. All right. And then on page 4,
22 I'm talking about the pages at the bottom
23 of the report, the paper pages if you will,
24 it's a statement of compensation. Is it
25 correct that your hourly rate is \$350 per

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1 hour?

2 A. Yes.

3 Q. And your paraprofessional's
4 rate is \$120 an hour, correct?

5 A. Yes.

6 Q. And it says you received a
7 retainer in the amount of \$120,000, is that
8 right?

9 A. At the time that I prepare the
10 report, yes.

11 Q. And have you received
12 additional retainer since then?

13 A. Yes.

14 Q. What about?

15 A. 5,000.

16 Q. I understand you received the
17 retainer. Do you have an approximation of
18 the amount of your billings to date? How
19 many fees have been incurred?

20 A. Well, can you repeat the
21 question, please?

22 Q. Yes. Or I can rephrase it if
23 that would be helpful. I'll withdraw it.

24 How much have you billed so far
25 in this engagement?

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1 A. I'd have to check my records,
2 but it's at least 25,000.

3 Q. Do you have any understanding
4 of what the source of the \$25,000 retainer
5 you received so far is?

6 A. I was told it came from David's
7 brother Ari.

8 Q. Okay. Are you of the belief
9 that the bankruptcy estate currently does
10 not have any cash on hand?

11 A. I don't have any information
12 about the bankruptcy estate.

13 Q. Okay.

14 All right, I think you said
15 earlier that a majority of your --
16 withdrawn. I think you said earlier that
17 more than 90 percent of your engagements
18 have been by the trustee in bankruptcy.
19 When you are retained by the debtor, do you
20 employ the same methods of examining the
21 financial issues in bankruptcy as you would
22 if you were employed by the trustee?

23 A. It depends on the circumstances
24 of the case.

25 Q. Did you employ any different

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1 means than your usual means or methods in
2 examining the -- or rebutting the Bracco
3 report as you would have in a retention by
4 the trustee?

5 MR. HUFNAGEL: Can you just
6 restate that question? I'm not
7 understanding it myself, so please
8 just restate it.

9 Q. I think it was something like
10 this. Did you employ any different means
11 or methods in examining the Bracco report
12 as you would in an engagement where you're
13 retained by the trustee?

14 A. Not necessarily. Here I
15 reviewed and analyzed books and records and
16 deposition transcripts and documents and
17 documents related to the litigation as I
18 would in any bankruptcy matter if it was
19 necessary.

20 Q. All right, I have put into the
21 chat box and hopefully shared with everyone
22 what we've marked as Plaintiff's
23 Exhibit 107.

24 (Whereupon, CFE Code of
25 Professional Standards was marked as

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1 Plaintiff's Exhibit 107 for
2 identification as of this date by the
3 Reporter.)

4 MR. HUFNAGEL: We have it open.
5 Feel free to scroll this.

6 Q. Yes, feel free to take a look.
7 The document is an excerpt of the Code of
8 Professional Standards for certified fraud
9 examiners. Feel free to look through it
10 and tell me whether you recognize any of
11 these from your time obtaining your
12 certificate as a CFE.

13 A. (The witness reviews the
14 document.)

15 Okay, I reviewed it. Can you
16 please repeat the question?

17 Q. Yes. I asked whether you
18 recognize any of these standards from the
19 time that you obtained your CFE.

20 A. These standards appear to be
21 familiar. I -- they do appear to be
22 familiar, yes.

23 Q. And let's take a look if we
24 could at page 3. This is the standard
25 having to do with a CFE drawing

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1 conclusions. And the standard is,
2 "Conclusions shall be supported with
3 evidence that is relevant, reliable and
4 sufficient." Do you see that?

5 A. Yes.

6 Q. And then the guidance for the
7 standard defines each of those terms. It
8 says, "Relevant evidence" -- I'm in the
9 middle paragraph, "Relevant evidence is
10 evidence that tends to make some fact at
11 issue more or less likely than it would be
12 without the evidence.

13 Are you both able to see it?

14 A. Yes. I see it.

15 Q. Okay, and then in the next
16 paragraph, which is the last paragraph on
17 this page, it says, "Evidence is reliable
18 if it comes from a trustworthy or
19 believable source." Do you see that?

20 A. Yes.

21 Q. And then the next sentence is,
22 "Evidence is sufficient to support a CFE's
23 findings and conclusions where the weight
24 of the evidence is sufficient such that a
25 reasonable professional could draw the same

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1 or a similar conclusion to that of the
2 member." Do you see that?

3 A. Yes.

4 Q. And the member is a person
5 who's earned the CFE, correct?

6 A. Yes.

7 Q. And did you employ this
8 standard in reviewing and rebutting
9 Mr. Bracco's report?

10 A. Yes.

11 Q. And then the last page of the
12 exhibit, the excerpt is about exercising
13 reasonable skepticism. And the guidance
14 there says that "CFEs must be alert to the
15 possibility of conjecture, unsubstantiated
16 opinion, and bias of witnesses and others."
17 Do you see that?

18 A. Yes.

19 Q. And then a few more lines down
20 in that guidance it says, "The CFE should
21 not accept questionable or illogical
22 statements at face value but instead should
23 seek to corroborate such claims with other
24 evidence before relying on them." Do you
25 see that?

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1 A. Give me one second --

2 Q. Sure.

3 A. -- please. Sorry, can you
4 repeat that?

5 Q. It's the seventh line down in
6 the middle of the paragraph, it says, "The
7 CFE should not accept questionable or
8 illogical statements at face value but
9 instead should seek to corroborate such
10 claims with other evidence before relying
11 on them." Do you see that?

12 A. Yes.

13 Q. And then it continues, "The CFE
14 should be cognizant of the potential motive
15 that some witnesses or suspects might have
16 for lying, which might include the
17 motivation to," and there's a list of
18 bullet points. And the first one is "cover
19 up their own wrongdoing or deflect
20 suspicion away from themselves." Do you
21 see that?

22 A. Yes.

23 Q. Did you employ this standard in
24 performing your rebuttal of Mr. Bracco's
25 report?

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1 A. Yes.

2 Q. Bear with me while I share one
3 more exhibit, excuse me.

4 Okay, I've put in the chat box
5 and shared with everyone what's been marked
6 as Plaintiff's Exhibit 108, which is an
7 application to employ your services in an
8 Eastern District of New York bankruptcy
9 called In Re Marine Risks, Inc.

10 (Whereupon, Application for
11 Order Authorizing Retention of Mr.
12 Lampert was marked as Plaintiff's
13 Exhibit 108 for identification as of
14 this date by the Reporter.)

15 Q. Tell me when you've got that
16 up.

17 A. We're looking at -- I think
18 this case is Maywood Capital.

19 Q. Hmm, then maybe I made a
20 mistake. Bear with me. I'm sorry, this is
21 the correct one.

22 So for the record, it's
23 Plaintiff's Exhibit 108, and it's In Re
24 Maywood Capital Corp. in the Southern
25 District of New York Bankruptcy Court.

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1 In this application the trustee
2 is seeking an order to appoint you as an
3 examiner for the trusts, is that correct?

4 A. No.

5 Q. What is happening here?

6 A. Seeking to authorize the
7 retention of me as accountant for the
8 trustee.

9 Q. Okay, I beg your pardon.
10 "Examiner" is a technical term that means
11 something different, is that right?

12 A. Yes.

13 Q. And beginning on PDF page 5
14 there's an affidavit from you that
15 describes your disinterest in the trust and
16 the tasks that the trustee has asked you to
17 undertake. Do you see that?

18 A. Yes, but this is not a trust.

19 Q. It's a bankruptcy estate,
20 right?

21 A. Yes.

22 Q. Okay. So the tasks that you
23 undertook were, I'm looking at page 5,
24 "Trace the assets of the debtor's from the
25 books and records, verifying the existence,

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1 if any, of any transfers or concealments of
2 assets or other fraudulent conveyances."

3 Do you see that?

4 A. Yes.

5 Q. Is that a typical task you
6 would undertake if you were engaged as
7 accountant for a bankruptcy estate?

8 A. If I was engaged for the
9 accountant -- for the bankruptcy trustee,
10 yes.

11 Q. Is that also a task that you
12 undertook with respect to representing the
13 debtor, David Cameo?

14 A. No.

15 Q. So one difference when you're
16 retained by the trustee in bankruptcy or
17 the debtor is you do not attempt to
18 determine whether there's been any
19 concealments of assets or fraudulent
20 conveyances, right?

21 A. No, my retention with David
22 Cameo was basically in connection with the
23 review and possible rebuttal of
24 Mr. Bracco's report.

25 Q. So you made no effort to verify

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1 that there were or were not transfers or
2 concealments of assets or other fraudulent
3 conveyances with respect to Mr. Cameo,
4 right?

5 A. That's correct, I didn't -- I
6 did not take on that review.

7 Q. And the next thing in the
8 exhibit is "Review the activities of the
9 principals insofar as it affects the
10 debtors as to use of corporate funds and/or
11 assets." Do you see that?

12 A. Yes.

13 Q. Is that something that you
14 undertook with respect to your engagement
15 for Mr. Cameo?

16 A. I don't understand how this is
17 related to Mr. Cameo. I don't know who the
18 principals are, I don't know who are the
19 debtors, so I can't answer that question.

20 Q. Okay, so I think that's a "no,"
21 right? It's not something you agreed to
22 undertake.

23 A. No, that's not -- that was not
24 my answer. I said I don't think I can
25 answer the question based upon the way it

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1 was presented.

2 Q. Do you know who the debtor is?

3 In the Cameo matter.

4 A. The debtor in the Cameo matter
5 is David Cameo.

6 Q. Okay, in connection with your
7 rebuttal of the Bracco report, did you come
8 to learn that he was the principal of the
9 company called Jersey Cameras 2?

10 A. Yes.

11 Q. Okay, and did you come to learn
12 he was the principal of a company called
13 Cameo Distribution?

14 A. I don't know if he was the
15 principal but he had an ownership interest.

16 Q. I guess I take "principal" to
17 be an ownership interest, but I appreciate
18 that clarification.

19 Did you come to learn that he
20 was affiliated with a company called
21 Digital Direct and More, and previously its
22 principal?

23 A. How would you describe
24 "affiliate"? My understanding that he used
25 to be a stockholder of the company.

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1 Q. That -- okay, so in connection
2 with those companies, did you undertake any
3 investigation of whether Mr. Cameo as
4 principal used corporate funds or assets or
5 made transfers -- I beg your pardon. Let
6 me rephrase it because I want to use the
7 correct words.

8 In connection with those
9 companies, did you review whether Mr. Cameo
10 as principal made any transfers or uses of
11 corporate assets that affected the debtor?

12 A. No, I reviewed the information
13 in Mr. Bracco's report and the books and
14 records and the testimony.

15 Q. Okay, did you make any review
16 of whether there were any preferential
17 transfers respecting Mr. Cameo in his
18 bankruptcy?

19 A. How would you define
20 "preferential transfers"?

21 Q. Well, take a look at your
22 affidavit in Plaintiff's Exhibit 108,
23 number 8. You say, "Review all loans
24 payable to and from officers and
25 stockbrokers in order to determine whether

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1 or not within the 12-month period prior to
2 the filing of petition there were any
3 corporate repayments against any such loans
4 or transactions with stockholders which
5 might be deemed preferential in nature."

6 I'm using it the way you're using it,
7 however you define it.

8 A. Okay. So can you -- so can you
9 please repeat -- can you repeat the
10 question, please?

11 Q. Yes, yes. Did you make any
12 effort to determine whether there were any
13 preferential transfers respecting the
14 debtor?

15 A. Respecting the debtor that he
16 has -- were there loans to the debtor or
17 were there loans from the debtor? I'm a
18 little confused as to what you're asking
19 me.

20 Q. Did you make any effort to
21 determine whether any preferential
22 transfers were made respecting the debtor?

23 MR. HUFNAGEL: By

24 "preferential" are you referring to
25 the bankruptcy code statute with the

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1 90 or one-year transfers? That's why
2 he's confused because you're using
3 the word "preferential" and you're
4 not giving a context. That's why he
5 seems confused.

6 You asked it already twice, so
7 if you're more specific that would
8 help you give the information you're
9 looking for.

10 Q. Okay, you may answer.

11 A. I'm sorry?

12 Q. You may answer.

13 MR. HUFNAGEL: You could
14 answer. I can't repeat his question.
15 You can answer what he asked you.

16 A. I did not review the records to
17 determine if there were any preferential
18 transfers because I wasn't aware -- no, the
19 answer is no, I did not review the records
20 to determine if there were preferential
21 transfers because it was not what I was
22 retained to do.

23 Q. All right. So what were you
24 retained to do in this matter?

25 A. I was retained to review the

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1 Bracco report and prepare a rebuttal report
2 if necessary of any opinions or information
3 in the report that I thought was incorrect
4 or I didn't agree with the opinion.

5 Q. But you were not asked to rebut
6 the conclusion that fraudulent conveyances
7 were made, is that right?

8 A. If that was -- if the
9 allegation that fraudulent conveyances were
10 made was included within the report, in the
11 Bracco report, yes, then I was asked to do
12 that. But I don't recall that Mr. Bracco
13 alleged that there were fraudulent
14 transfers made in his report.

15 Would it be possible to take a
16 five-minute break, please?

17 Q. Sure.

18 A. Or whenever it's convenient.

19 Q. This is a fine time. Let's
20 take five.

21 A. The time is 11:02 a.m. and
22 we're going off the record.

23 (Whereupon, a short recess was
24 taken.)

25 THE VIDEOGRAPHER: The time is

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1 11:11 a.m. and we're back on record.

2 MR. MAGLIERY: Thank you.

3 I am sharing in the chat box
4 what we've marked as Plaintiff's
5 Exhibit 109, which is the expert
6 report of Anthony M. Bracco dated
7 August 7, 2023 in this case.

8 (Whereupon, Expert Report of
9 Mr. Bracco was marked as Plaintiff's
10 Exhibit 109 for identification as of
11 this date by the Reporter.)

12 MR. HUFNAGEL: Okay, we have a
13 hard copy of the report, so I'm
14 handing that to Gary, the witness
15 here. But to the extent we need to,
16 well scroll through the PDF which we
17 have open on the screen as well.

18 Q. Mr. Lampert, do you recognize
19 this report as the one that you were called
20 upon to rebut?

21 A. Without going through every
22 page, it appears to be the report.

23 Q. If you would take a look at
24 hard copy page 8, number 8 at the bottom,
25 "Summary of opinions," here Mr. Bracco sets

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1 forth five opinions that he summarizes.
2 And the first one is, "Cameo operated
3 Jersey Camera as a shell company or conduit
4 through which proceeds from sales of goods
5 on Amazon.com flowed to Digital Direct and
6 from which Cameo personally benefitted."

7 Do you see that?

8 A. Yes.

9 Q. Did you form an opinion that
10 that statement was untrue?

11 A. Yes.

12 Q. And did you include a rebuttal
13 of that opinion within your report?

14 A. Yes.

15 Q. Is it set forth in a separate
16 section or is it included in the kind of
17 item-by-item rebuttals that form your
18 report?

19 A. My rebuttal report basically
20 followed the outline of the Bracco report,
21 so there should be a separate section for
22 that opinion.

23 Q. Okay, I see. All right, let's
24 go to your report then. I think I
25 understand what you're saying, and I think

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1 it's on page 9 -- paper page 9 of your
2 report.

3 MR. HUFNAGEL: Just for the
4 record, can we just identify the
5 exhibit? I'm sorry, I just want to
6 make sure.

7 MR. MAGLIERY: Yes, Plaintiff's
8 Exhibit 106 is the Lampert report.

9 MR. HUFNAGEL: Thank you. Page
10 9 you said?

11 MR. MAGLIERY: Yes.

12 MR. HUFNAGEL: Thank you.
13 Your report, page 9.

14 A. I just want to make one comment
15 if I may.

16 Q. Please.

17 A. About Mr. Bracco's report. On
18 page 8, the first item, the last few words
19 are "and from which Cameo personally
20 benefitted." Then when Mr. Bracco appears
21 to provide detail on that opinion on page
22 10, the last part of that sentence is not
23 included on page 10.

24 So I didn't -- when I prepared
25 my report I just addressed the opinion --

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1 or the information on page 10, not on page
2 8.

3 Q. Okay, I understand.

4 A. Okay.

5 Q. So page 9 you rebut the opinion
6 by saying the opposite, right? You say
7 Cameo did not operate Jersey Camera as a
8 shell.

9 And I take it that the
10 following paragraphs elaborate on that
11 point, is that right?

12 A. I'm sorry, can you --

13 Q. The following paragraphs
14 elaborate on the rebuttal?

15 A. The following paragraphs that
16 are in italics are basically from the
17 Bracco report. Anything in italics from
18 the Bracco reports, and it should be
19 footnoted.

20 Q. Okay, so you -- I see. You're
21 saying -- you're citing here the Bracco
22 report, pages 10 and 11.

23 A. Yes.

24 Q. And then the rebuttal begins in
25 what is paragraph 16 of your report,

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1 correct?

2 A. Yes. My rebuttal with regard
3 to that particular opinion, yes.

4 Q. Okay, so you conclude that the
5 summary of the operation of Jersey Cameras'
6 credit terms with the DDAM are incorrect
7 because Jersey Camera maintains its books
8 on a cash basis.

9 Can you explain what that
10 means, to maintain the books on a cash
11 basis.

12 A. I don't understand your
13 question because you talk about credit
14 terms and cash basis. So I don't follow
15 the question.

16 Q. Well, I'm just reading how your
17 paragraph 16 follows your paragraph 15. It
18 seems to me that you're attempting to rebut
19 paragraph -- the excerpt in paragraph 15 in
20 paragraph 16. Maybe I'm wrong.

21 A. Okay, I think I understand what
22 you are asking. But if you wouldn't mind,
23 can you please rephrase it?

24 Q. Yes. Am I correct that you
25 believe Mr. Bracco's description excerpted

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1 in paragraph 15 of your report of Jersey
2 Cameras' operation on credit terms is
3 incorrect because Jersey Cameras operated
4 on a cash basis?

5 A. No, the credit terms were
6 separate from the issues with the cash
7 basis. The cash basis had to do with
8 Mr. Bracco's allegation that there was no
9 liability for the purchase of inventory
10 reflected on the books as a liability,
11 which is incorrect because there wouldn't
12 be a liability if the books are maintained
13 on a cash basis.

14 Q. Okay, so when you say, looking
15 at paragraph 16, "the foregoing information
16 is incorrect."

17 A. Yes.

18 Q. The foregoing information is
19 the assertion that there should have been a
20 record of inventory and payables?

21 A. No. Mr. Bracco's report -- let
22 me quote it exactly. Okay, in the -- on my
23 report, page 9, the middle paragraph which
24 is footnoted as number 3, the Bracco report
25 reflects that, "I would expect Jersey

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1 Cameras' books and records to reflect
2 assets in the form of inventory and a
3 liability in the form of a payable to
4 Digital Direct. However,". So I was
5 referring to that particular statement.

6 Mr. Bracco goes on to say
7 "However, Jersey Cameras' general ledgers
8 do not reflect inventory or liability to
9 Digital Direct." And my reply to that
10 particular statement is that the Jersey
11 Cameras maintain their ledger on a --
12 general ledger on a cash basis, and
13 therefore the liability would not be
14 reflected within the general ledger.

15 Q. Okay. So my question to you
16 then -- thank you, I appreciate that
17 explanation -- is how do you know that
18 Jersey Cameras maintain their books on a
19 cash basis?

20 A. Well, the general ledger didn't
21 have any other accounts other than cash,
22 sales, purchases and bank charges, which
23 were all cash transactions, either cash
24 that was received or cash that was paid.
25 And I asked Mr. Cameo was it maintained on

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1 a cash basis, and he told me yes, it was
2 maintained on a cash basis.

3 Q. Okay, so how did you determine
4 the difference between the records being
5 missing and the books being maintained on a
6 cash basis?

7 A. I don't know what records that
8 are missing that you are referring to.

9 Q. How did you determine that
10 rather than intentionally not recording
11 inventory or payables, the books are kept
12 on a cash basis?

13 A. If the books are on a cash
14 basis, then you don't record -- you don't
15 report payables because it's only based
16 upon the cash receipts and the cash
17 disbursements. It doesn't appear that
18 anything was left out intentionally because
19 it's not -- for cash basis bookkeeping
20 that's not part of the accounting.

21 Q. Okay, is it possible that a
22 business is using the accrual basis of
23 accounting but simply does not have
24 inventory or receivables or payables?

25 A. Did you say it's possible that

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1 they have cash basis of accounting?

2 MR. HUFNAGEL: No, he didn't
3 say "they." It's a very general
4 question. Is it possible that a
5 business could not -- restate it,
6 please. I think we're both kind of,
7 like, pondering over here your
8 question as to whether it's unique to
9 this company or just a general
10 question I think.

11 MR. MAGLIERY: Sue, can you
12 read it back.

13 (Whereupon, the referred to
14 question was read back by the
15 reporter.)

16 A. Yes, it is possible.

17 Q. So on what basis did you make
18 the conclusion that Jersey Cameras was
19 operating on a cash basis?

20 A. Because the general ledger only
21 reflects cash transactions. It doesn't
22 have an account for accounts receivable, it
23 doesn't have an account for accounts
24 payable. And Mr. Cameo told me he was on
25 cash basis when I asked him.

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1 Q. Okay, I'd like to break that up
2 into kind of two parts. I think you
3 already just testified that the absence of
4 receivables, payables or inventory isn't
5 enough alone to determine whether the
6 business is on a cash basis or accrual
7 basis, correct?

8 A. Yes, I did testify to that.

9 Q. Okay, so the additional piece
10 that leads you to that conclusion is
11 Mr. Cameo's information, right?

12 A. No, but also that this company
13 had receivables and had payables and did
14 not record them on the general ledger
15 because it was maintained on a cash basis.
16 So those assets and liabilities did exist;
17 they were just not recorded on the general
18 ledger.

19 Q. Did you ask to see records of
20 the payables, receivables and inventory?

21 A. I don't recall.

22 Q. Do you think it would have been
23 prudent as a certified fraud examiner to
24 ask to see records to verify the payables,
25 receivables and inventory?

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1 A. I probably did ask for records
2 with regard to the purchases. But I did
3 not request any of the records with regard
4 to the payables or the receivables because
5 it's not what I was retained to do. And
6 the testimony of Mr. Cameo and the
7 information in Mr. Bracco's report reflects
8 that there were sales that were made with
9 regard to credit term, and there were
10 purchases that were made on credit terms.

11 So the information in those two
12 parts provided evidence that there were
13 accounts receivable and that there were
14 payables.

15 Q. When you asked Mr. Cameo, were
16 you cognizant of the CFE requirement that
17 you only use evidence that is reliable,
18 meaning comes from a trustworthy or
19 believable source?

20 A. When I asked Mr. Cameo what?

21 Q. Whether the books and records
22 were kept on a cash basis.

23 A. I was asking Mr. Cameo to
24 confirm what it appeared to be in the
25 general ledger that it appeared to be

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1 maintained on a cash basis.

2 Q. But you didn't, if I understand
3 you correctly, ask to see the records of
4 inventory and the payables, correct?

5 A. I did -- I asked to see
6 invoices, which they told me that they
7 didn't have and that they did at the time
8 of the transactions. But I did not ask for
9 accounts payable records, no.

10 Q. Okay, or inventory records,
11 right?

12 A. I don't recall if I asked for
13 inventory records.

14 Q. So given that the invoices, if
15 they existed, were not produced to you or
16 unavailable, was there anything other than
17 Mr. Cameo's information to you that
18 payables, inventory and receivables existed
19 at Jersey Cameras?

20 A. Based on his testimony and the
21 information within the Bracco report
22 indicated that Jersey Cameras sold goods on
23 credit and they had to wait a period of
24 time to be paid, which would create a
25 receivable, and they acquired goods on

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1 credit, which would create a payable or a
2 liability.

3 Q. The Bracco report is just
4 reciting what Cameo says. So is there any
5 other document that you were able to view
6 that verified the existence of inventory,
7 receivables or payables?

8 A. Well, I don't agree that the
9 Bracco report just recites what Cameo said.
10 I think he goes into more detailed analysis
11 and he based some of his opinions based
12 upon his analysis and the testimony of
13 Mr. Cameo.

14 So I was relying on the
15 information in the Bracco report and the
16 testimony of Mr. Cameo.

17 Q. Okay, and where did Bracco get
18 his understanding of how the business
19 operated?

20 A. You'll have to ask Mr. Bracco.

21 Q. From the Cameo deposition,
22 right? He cites it.

23 A. That's what he put in his
24 report, but I don't know -- I don't know
25 how he -- I don't know what he used or what

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1 he did to prepare his report.

2 Q. Okay, well, did you notice that
3 he cited in footnotes throughout his report
4 where he got the information? Just like
5 you did?

6 A. Yes. He said that he reviewed
7 various documents.

8 Q. He wasn't able to review any
9 records of any payables, receivables or
10 inventory, was he?

11 A. I don't know.

12 Q. But regardless, in your
13 capacity as a CFE performing a rebuttal
14 report, your evidence that the books and
15 records were kept on a cash basis is
16 Cameo's testimony, right?

17 A. It's Cameo's testimony and it's
18 based upon the actual general ledger that
19 only reflects the cash basis accounts. And
20 I specifically asked Mr. Cameo and he told
21 me it was maintained on a cash basis.

22 Q. We're going in circles a little
23 bit. I understand that Cameo told you, and
24 I understand the ledger doesn't include
25 them. And I'm just looking for the last

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1 piece, which is you have not received any
2 documents, you have not set your eyes on
3 any documents that show any payables,
4 receivables or inventory. It's an
5 assumption you're making, is that correct?

6 MR. HUFNAGEL: Please restate
7 the question. You have a lot of
8 background there --

9 MR. MAGLIERY: I will not
10 restate it. It's a perfectly
11 understandable question.

12 MR. HUFNAGEL: Read back the
13 question, please.

14 (Whereupon, the referred to
15 question was read back by the
16 Reporter.)

17 Q. I'll withdraw it and simplify
18 it. Have you reviewed any books and
19 records of Jersey Cameras 2 that show
20 payables, receivables or inventory for the
21 company?

22 A. The books and records I
23 reviewed include bank statements. And the
24 bank statements include deposits, and these
25 deposits may have been receipts from

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1 accounts receivable.

2 And it also -- the bank
3 statements also reflect payments, and the
4 payments may have reflected the payments of
5 the accounts of the accounts payable.

6 So those are the records I
7 reviewed that may relate to the accounts
8 receivable and the accounts payable, just
9 as the general ledger reflects the receipt
10 of the cash as an increase in cash and
11 sales and the payments of purchases, which
12 is a decrease of cash, which appears to pay
13 goods that were bought on credit.

14 Q. Mr. Lampert, you've been an
15 accountant for 43 years, right?

16 A. Yes.

17 Q. What is the difference between
18 a payable and a payment?

19 A. A payable is an accrual when
20 goods or services are provided at the time
21 of the transaction.

22 A payment is when a payment is
23 made either on a cash basis or a payment
24 for a payable that -- and the payment
25 reduces the amount of cash.

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1 Q. So are you testifying that the
2 evidence of the existence of payables is
3 payments?

4 A. I'm testifying that that's what
5 it may be.

6 Q. Okay, and what is the
7 difference between a receivable and a
8 receipt?

9 A. A receivable is created when
10 something is sold or goods or services are
11 provided and it's not made, it's going to
12 be made pursuant to credit terms.

13 The receipt is the payment that
14 is received for the goods or services that
15 are provided.

16 Q. And are you testifying that the
17 receipts that are shown in the bank
18 statement are evidence that there are
19 receivables?

20 A. The receipt shown and combined
21 with the testimony of Mr. Cameo that he
22 sold goods on credit is the evidence that
23 the cash receipt -- the cash deposit into
24 the accounts were the collections of the
25 accounts receivable.

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1 Q. Okay, so other than the bank
2 statements which show receipts and
3 payments, you'll agree with me about that,
4 right?

5 A. Correct.

6 Q. Other than those, did you see
7 any documents that evidence inventory,
8 payables or receivables maintained by the
9 company?

10 A. Not that I recall, but it
11 doesn't mean that the receivables didn't
12 exist and that the payables didn't exist.

13 Q. And it doesn't mean they did,
14 right? We can't tell one way or the other.

15 A. I don't agree with that
16 statement because I'm relying on the
17 information -- on the testimony of
18 Mr. Cameo and the information in the Bracco
19 report. So I don't agree with that
20 statement.

21 Q. And Bracco is citing the Cameo
22 testimony, too, right?

23 A. Parts of his report include
24 cites from Mr. Cameo's testimony, yes.

25 Q. Well, he has no firsthand

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1 knowledge, right? He didn't render
2 services as an accountant to Jersey Cameras
3 2, did he?

4 A. I don't know.

5 Q. He says he didn't, right?

6 A. Yes.

7 Q. So he's just relying on the
8 evidence in the case, right? If he's doing
9 his expert work properly.

10 A. That's how it appears.

11 Q. Do you have any -- withdrawn.
12 Are you aware that Jersey Cameras had
13 approximately \$7 million of revenue from
14 inception through the time it became
15 defunct?

16 A. I don't recall the exact
17 amount, but whatever the amount that was
18 reflected in the general ledger and the
19 bank statements is the amount. I just
20 don't recall the exact amount.

21 Q. Do you remember it being
22 millions of dollars?

23 A. Yes.

24 Q. Okay, and as a certified fraud
25 examiner, do you think it's unusual that a

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1 company would have no records of its
2 payables, receivables or inventory for a
3 business of that magnitude?

4 A. Not at all. This was a very
5 small company. It was a one-person
6 operation run out of someone's home on a
7 laptop.

8 My experience is -- in my
9 experience I've seen many, many companies
10 that maintain their records on a cash basis
11 for various reasons and don't record
12 payables and receivables and don't account
13 for inventory. So to me it's very common.
14 It's not unusual.

15 Q. Mr. Lampert, there's a big
16 difference between recording payables and
17 receivables on the general ledger and
18 maintaining no documents about them, isn't
19 there?

20 A. Yes.

21 Q. And even if a company employs
22 the cash basis of accounting on its general
23 ledger, it may still keep records of
24 payables and receivables and inventory,
25 right?

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1 A. Maybe.

2 Q. And in fact, in prior
3 engagements you have determined that the
4 absence of payables, receivables or
5 inventory records is an indicia of
6 potential fraud, haven't you?

7 A. Not that I recall.

8 Q. You've never thought that not
9 having any books and records about the
10 amount of inventory or payables and
11 receivables is at least something that
12 requires further examination as a certified
13 fraud examiner?

14 A. It depends on the circumstances
15 of the matter. In this particular case,
16 this was a company that was owned and
17 maintained by one person. They had no
18 employees, and they did -- and Mr. Cameo
19 did testify that he did have records at one
20 time to support the receivables and the
21 payables but he didn't maintain those
22 records.

23 Q. He testified only that he had
24 purchase invoices, didn't he?

25 A. I don't recall the exact

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1 testimony.

2 Q. I think you already said that
3 earlier. I don't remember him ever saying
4 he had receivables or payables. Do you
5 remember him saying that? Did he tell you
6 that?

7 A. I remember he said -- he talked
8 about the invoices for the purchases. I
9 don't recall if he said that there were
10 invoices for the sales and the receivables.

11 Q. I put into the chat what we've
12 marked as Plaintiff's Exhibit 110, which is
13 a letter you wrote to Judge Carla Craig in
14 a case called "In Re J&R Pizza Corp."

15 (Whereupon, 3/2/15 Letter to
16 Judge Craig was marked as Plaintiff's
17 Exhibit 110 for identification as of
18 this date by the Reporter.)

19 Q. Does that case ring a bell to
20 you, Mr. Lampert?

21 A. Yes.

22 MR. HUFNAGEL: Just one second.

23 Okay, we have the exhibit. For
24 the record, you asked if this is
25 familiar. Just restate that.

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1 MR. MAGLIERY: I asked whether
2 the case was familiar and he said
3 yes.

4 MR. HUFNAGEL: And he said yes,
5 exactly. So that's clear.

6 Q. Mr. Lampert, is Plaintiff's
7 Exhibit 110 familiar to you?

8 A. It looks familiar.

9 Q. Okay, in the second line you
10 say, "Subject to the availability and
11 condition of the debtor's books and
12 records, I propose to perform the following
13 services for the debtor's post petition
14 period."

15 What did you mean by "subject
16 to the availability and condition of the
17 debtor's books and records"?

18 A. If the books and records are
19 complete and if they're accurate.

20 Q. Okay, and what books and
21 records would you need to review to know if
22 they're complete and accurate?

23 A. It depends -- you mean in this
24 particular case or in general?

25 Q. Yes, in the R&J Pizza Corp.

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1 case.

2 A. I don't recall. This was 2015.

3 I don't recall the exact records that I
4 would have reviewed as I sit here right
5 now. I just don't recall the records.

6 Q. But you do agree that you could
7 only perform the services you list subject
8 to the availability and condition of the
9 debtor's books and records, right?

10 A. Depending on the availability
11 and the condition of the books and records,
12 yes.

13 Q. And the fifth service that you
14 list you proposed to perform is to
15 determine if there was any debtor
16 misconduct, right?

17 A. Yes.

18 Q. So a condition of being able to
19 determine whether there's misconduct is the
20 availability and condition of the debtor's
21 books and records, right?

22 A. Not necessarily.

23 Q. Well, that's what you told the
24 judge. Were you being true and accurate in
25 telling the judge that a condition of

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1 determining whether there was any debtor
2 misconduct was the availability and
3 condition of the debtor's books and
4 records?

5 A. Yes, that was part of my
6 letter.

7 Q. And it's a true statement,
8 right?

9 A. It's true, but it also -- it
10 depends.

11 Q. Well, you didn't tell the judge
12 it depended, right? You told her that you
13 needed have available and it depended on
14 the condition of the debtor's books and
15 records to be able to determine if there
16 was debtor misconduct, right?

17 A. Yes.

18 Q. Now, in general now, so zooming
19 out from the R&J Pizza Corp., what
20 documents -- I beg your pardon, what books
21 and records need to be available to perform
22 an assessment of any debtor misconduct?

23 A. With regard to R&J Pizza?

24 Q. No, in general. In your many
25 engagements, what documents, what books and

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1 records do you need to have available to
2 you to be able to make that assessment?

3 A. It depends on the case, it
4 depends on the circumstances, it depends on
5 the allegations.

6 Q. What are the minimum documents
7 that you need to see in every case?

8 A. Bank records.

9 Q. Is that it?

10 A. Those are the minimum
11 documents, yes.

12 Q. And so from bank statements
13 alone you are able to make an assessment
14 about debtor misconduct?

15 A. Not necessarily. Perhaps.
16 Sometimes you can't, but those are the
17 minimum documents that would -- sometimes
18 you can. It just depends on the case, the
19 circumstances and the allegations.

20 Q. Well, have you ever given an
21 opinion that failing to reconcile bank
22 accounts to the company owned books and
23 records is a failure on the part of a
24 business?

25 A. I might have. I just don't

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1 recall as I sit here. And I wouldn't say
2 it was a failure, but it was something that
3 was noted.

4 Q. It was an indicator.

5 A. It was something that I noted.
6 I don't know. I'm not characterizing it; I
7 would just -- I would note it and let the
8 reader or the trier opine on it.

9 Q. So would it be relevant to note
10 that in paragraph 16 of your rebuttal that
11 you never were able to view any
12 receivables, payables or inventory
13 documents?

14 A. On page 16?

15 Q. Paragraph 16.

16 A. Paragraph 16.

17 MR. HUFNAGEL: Page 10.

18 A. No, because I relied on the
19 testimony of Mr. Cameo and the information
20 that was included in the Bracco report.

21 Q. When Jersey Cameras was going
22 to issue a payment, how did Jersey Cameras
23 know that it had sufficient funds available
24 to cover the payments?

25 MR. HUFNAGEL: Could you repeat

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1 that question, please? I'm kind of
2 confused myself. Sorry, probably me.

3 MR. MAGLIERY: Just "repeat the
4 question" is fine, Brian. We don't
5 need to have a whole explanation.

6 MR. HUFNAGEL: Understood. I
7 don't understand it and you're very
8 clear, but just repeat it, please.

9 Q. When Jersey Cameras was going
10 to issue a payment, how did it know it had
11 sufficient funds available to cover the
12 payment?

13 A. I don't understand the
14 question. I don't know what "sufficient
15 funds" means.

16 Q. Okay.

17 A. And I -- that was not part of
18 any -- that was not part of the testimony,
19 that was not part of the Bracco report.

20 Q. Okay, when Jersey Cameras was
21 going to write a check to make a payment,
22 how would Jersey Cameras know that it had
23 sufficient funds to cover the payment?

24 A. I don't know. You'd have to
25 find out from Mr. Cameo or anyone that was

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1 issuing the check.

2 Q. Did you read all of the Cameo
3 deposition transcript?

4 A. Yes.

5 Q. When you issue a check, how do
6 you determine that you have enough money to
7 cover the check?

8 MR. HUFNAGEL: Objection.

9 You can answer.

10 A. I look at my checkbook to see
11 what the balance is.

12 Q. And then -- excuse me.

13 A. I'm sorry?

14 Q. I'm sorry, please finish.

15 A. And to see if it's enough to
16 cover the check.

17 Q. Okay, and do you maintain a
18 ledger of checks that are written --

19 MR. HUFNAGEL: Objection.

20 Sorry, finish the question. My
21 apologies.

22 A. Can you repeat that, please?

23 Q. Do you maintain a ledger of
24 checks that were written even though they
25 were uncashed?

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1 A. I don't have a ledger. I have
2 a checkbook, so yes. If that's considered
3 a ledger, yes.

4 Q. You have a record of checks
5 that are issued but not yet cleared your
6 bank, right?

7 A. I have a record of checks that
8 are issued. I don't know at the instant
9 whether the checks are cleared or not.

10 Q. So how would a company know
11 whether it had sufficient funds to cover
12 all of the checks it's written, in your
13 experience as an accountant?

14 A. In my experience as an
15 accountant, sometimes they call the bank or
16 they look -- someone will look on the
17 account online to see what the balance is.
18 Sometimes they don't -- sometimes companies
19 don't consider outstanding checks or
20 deposits in transit. Sometimes they
21 maintain check books or keep information on
22 QuickBooks or some other type of accounting
23 software. It just depends on the company
24 and who is operating the company.

25 Q. Okay, and which of those

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1 practices is the most prudent practice for
2 accounting purposes? In your opinion.

3 A. Maintaining the balance.

4 Q. In some sort of journal or
5 ledger or checkbook or electronic file,
6 right?

7 A. Right, but a lot of small
8 companies don't do that. A lot of the
9 small companies, they just record the
10 transactions and they'll look at the bank
11 account online. So for many companies it's
12 not necessary to maintain ledgers or
13 accountings of cash balances.

14 Q. And does that not increase the
15 risk of multiple checks being presented to
16 banks at the same time and insufficient
17 funds for the clearance of those checks?

18 A. Not necessarily. In recent
19 history many transactions are done by wire
20 transfer. So the issue of outstanding
21 checks is not as prevalent as it had been
22 in the past.

23 Q. Okay, well, my question is
24 about checks, so let's stick with checks.
25 And I'd really like an answer. Why do you

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1 say "not necessarily"?

2 A. I don't recall what question I
3 answered.

4 Q. I said doesn't the failure to
5 maintain a cash balance ledger or a
6 checkbook increase the possibility of
7 multiple checks being presented for
8 clearance and there not being sufficient
9 funds to pay?

10 A. No, not necessarily because
11 someone can look online to see if a check
12 is cleared. So you don't have to have a
13 ledger or an accounting to find out if a
14 check that you issued is already cleared.

15 Q. Right, but what if there are
16 multiple checks written but not yet
17 presented to a bank, then is the
18 possibility of multiple checks being
19 presented and there being insufficient
20 funds increased in the absence of a cash
21 ledger?

22 A. Not necessarily because someone
23 can go online to see what checks are
24 outstanding and what checks have cleared.
25 And you don't need a cash ledger to

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1 determine what the outstanding checks are
2 and to determine what your balances are.

3 Q. Okay, how would you do that?
4 If you have no record of what checks you've
5 written, how would you determine the amount
6 of outstanding checks?

7 A. Well, if you don't have a
8 record of the checks that you wrote, then
9 you don't know if you have any outstanding
10 checks.

11 Q. Okay.

12 A. I think that might answer your
13 question.

14 Q. I think that's it.

15 Now, did you look at any Jersey
16 Cameras tax returns to determine whether
17 they reported to the government that they
18 were operating on a cash basis or an
19 accrual basis?

20 A. No.

21 Q. All right, I've put into the
22 chat what's been marked as Plaintiff's
23 Exhibit 111.

24 (Whereupon, Digital Direct 2012
25 Taxes was marked as Plaintiff's

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1 Exhibit 111 for identification as of
2 this date by the Reporter.)

3 Q. Tell me when you have that
4 available.

5 MR. HUFNAGEL: All right, I'm
6 handing that to the witness.

7 Q. This is a Form 1120, U.S.
8 income return for an S Corp. for a company
9 called Digital Direct, Inc. Do you see
10 that?

11 A. Yes.

12 Q. Do you know how Digital --

13 A. Excuse me, I just want to
14 clarify. It's a Form 1120-S.

15 Q. Sorry. Do you know how Digital
16 Direct, Inc. is related to this case?

17 A. I don't recall.

18 Q. Did you review this tax return
19 in connection with forming your opinion?

20 A. I don't recall.

21 Q. Now, can you explain to me how
22 we would determine whether a company is
23 reporting on a cash or accrual basis to the
24 government?

25 A. If you go to page 2, Schedule

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1 B, item 1, you would check the box "cash
2 accrual or other."

3 Q. On page -- here the box is
4 checked for "cash," correct?

5 A. Yes.

6 Q. So Digital Direct, Inc. is
7 reporting on a cash basis.

8 A. That's how it appears, yes.

9 Q. And if you take a look at the
10 first schedule, Schedule K1, would you
11 agree with me that David Cameo is the 100
12 percent owner of Digital Direct, Inc.?

13 A. K1 reflects that Mr. David
14 Cameo is 100 percent owner.

15 Q. Now, this is a 2012 tax return
16 so it's a while ago.

17 Am I correct that this
18 business, although reporting on a cash
19 basis, also maintains a record of its
20 inventory? Is there a way to determine
21 that from the tax return?

22 A. The tax return reflects the
23 opening and closing inventory.

24 Q. Okay, so it's possible to
25 report on a cash basis and also maintain

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1 records of your inventory, right?

2 A. When you say "maintain
3 records," it's very common for small
4 companies not to record inventory
5 transactions in the general ledger, and
6 they just merely make an entry at the end
7 of the year to adjust the inventory amount
8 at the beginning of the year and at the end
9 of the year.

10 So for small companies, it may
11 not be necessary for them to maintain an
12 inventory ledger.

13 Q. And then how would they go
14 about knowing the amount to record at the
15 beginning of the year and the end of the
16 year?

17 A. They can do a physical count or
18 they might have other -- they may have some
19 other methodology of determining the amount
20 of the inventory.

21 Q. Okay, so would it increase the
22 credibility of Jersey Cameras 2, having no
23 inventory payables or receivables, if there
24 were a tax return showing the beginning
25 year and end year inventory numbers?

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1 A. Would it increase the
2 credibility -- can you repeat that back to
3 me, please.

4 Q. Yes. So the certified fraud
5 examiner guidance says that evidence is
6 sufficient where there's a weight of
7 evidence such that a reasonable
8 professional could draw the same or similar
9 conclusion to that of a member and evidence
10 is reliable if it comes from a trustworthy,
11 believable source.

12 Do you remember we went over
13 those before?

14 A. Yes.

15 Q. Would it make more credible the
16 assertion that Jersey Cameras 2 was
17 operating on a cash basis and not
18 maintaining intra-year inventory records if
19 the tax returns at least showed the
20 beginning and ending inventory?

21 A. Not necessarily.

22 Q. You're not as a certified fraud
23 examiner interested at all in whether the
24 Jersey Cameras 2 tax returns showed
25 inventory or not?

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1 A. No, because even if they didn't
2 have any inventory at the beginning of the
3 year and the end of the year but had
4 inventory throughout the year, they still
5 could have maintained inventory. So the
6 mere fact that they have a number for
7 beginning and ending inventory would not
8 have any effect.

9 Q. Okay, so did you ask to see the
10 tax returns for Jersey Cameras 2 during
11 the --

12 A. Excuse me?

13 Q. Did you ask to see the tax
14 returns for Jersey Cameras 2 during the
15 course of your engagement?

16 A. Yes.

17 Q. And did you receive them?

18 A. No.

19 Q. Do you know why not? Without
20 disclosing anything an attorney told you.

21 If you can't answer without it,
22 that's fine.

23 A. I'm not sure if I could answer.

24 Q. Why did you ask to see them?

25 A. Because I wanted to see as many

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1 records as I could for Jersey Cameras.

2 Q. Did you also request the
3 records of -- withdrawn.

4 Excuse me for one second.

5 (Pause.)

6 I'm sorry, I just had someone
7 say something to me in the corner here. My
8 son, who is ill today.

9 Would you prefer to have more
10 than one source to show the existence of
11 inventory in order to verify the testimony
12 of Mr. Cameo?

13 A. Would I prefer to have more
14 than one source?

15 Q. Yes.

16 A. What do you mean by the
17 "existence of inventory"?

18 Q. Well, in your professional
19 practice, as a certified fraud examiner do
20 you prefer to have corroboration?

21 A. You always try to get as much
22 information as you can, but you have to --
23 you have to get whatever you can get and
24 you use whatever information is available.

25 Q. What about in the 2012 Digital

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1 Direct, Inc. tax returns, that's
2 Plaintiff's Exhibit 111, can we determine
3 from the tax returns whether payables are
4 recorded on the tax returns?

5 A. What type of payables are you
6 referring to?

7 Q. What types are listed?

8 A. Excuse me?

9 Q. What types are listed?

10 A. There's accounts payable,
11 there's mortgage notes, bonds payable in
12 less than one year, other current
13 liabilities, loans to shareholders,
14 mortgage notes, bonds payable in one year
15 or more, and other liabilities.

16 Q. Okay, so I think you're on
17 lines 16 through 21 of the tax return --

18 A. 22.

19 Q. 21, I beg your pardon.

20 A. 21, I'm sorry.

21 Q. Okay, 21. And here am I
22 correct that there are two types of
23 payables listed, other current liabilities
24 in line 18 and loans to shareholders in
25 line 19?

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1 A. Yes.

2 Q. And then there's a statement
3 attached to line 18 which is statement 22,
4 is that right?

5 A. Yes.

6 Q. And does that occur later in
7 the tax return?

8 A. Yes.

9 Okay, I'm not sure, did you ask
10 me a question?

11 Q. Yes. I just asked you if it
12 occurred later in the tax return. And you
13 said yes.

14 A. And I said yes.

15 Q. Then if we go to PDF 8 of 26, I
16 think the statement 22 is listed there.
17 And it just lists something called "current
18 liabilities." Do you see that?

19 A. Current liabilities, beginning
20 of year, end of year.

21 Q. And then NYS FTX.

22 A. Yes.

23 Q. Do you know what that is?

24 A. Yes.

25 Q. And then PROF, do you see that?

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1 A. Yes.

2 Q. So again, I just want to
3 clarify with you. It is possible that a
4 company can keep a cash accounting basis
5 and still record its payables, right?

6 A. I don't know if these are
7 payables or if these are withholdings. So
8 if they're withholdings, they're not
9 necessarily a payable in the context of a
10 purchase, which would be something that was
11 done on credit. Because there's no entry
12 for anything on accounts payable which
13 would indicate or which may indicate that
14 this is the balance due for items that were
15 bought on credit. These other current
16 liabilities may relate to withholding for
17 payroll. Let's see.

18 So I'm not sure what these
19 liabilities relate to. I'm not sure if
20 these -- I'm not sure what these
21 liabilities are for. If it was -- if it
22 was on -- if they were reporting it on an
23 accrual basis, if they reported the balance
24 on an accrual basis, I would expect to see
25 entries in accounts receivable and entries

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1 in accounts payable, which I don't see.

2 So I'm not quite sure what
3 these other current liabilities are.

4 Q. But this company does its
5 reporting on a cash basis, right?

6 A. Correct.

7 Q. Now, can you go back with me to
8 the first page of the return, "other
9 deductions," and there's \$317,000 of
10 deductions and it says that's listed on
11 statement 2. Do you see that?

12 A. Yes.

13 Q. And now if you go down to
14 statement 2, can you -- do you have an
15 understanding as an accountant of what
16 "other deductions" are included in line 19
17 of the tax return?

18 A. Other deductions total
19 \$317,313.

20 Q. And is it fair to say that
21 these are some sort of business expenses
22 that are deducted from income before the
23 tax is applied?

24 A. That's how it appears.

25 Q. And have you had occasion to

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1 review at least several hundred small
2 business operating budgets for tax return
3 in your time as a forensic or bankruptcy
4 accountant?

5 A. Did you say "operating
6 budgets"?

7 Q. I don't know if I said
8 operating budgets.

9 A. Can you repeat the question,
10 please?

11 Q. Have you become familiar with
12 the expenses that are usually incurred by
13 small businesses in connection with your
14 several hundred engagements as a forensic
15 or bankruptcy accountant?

16 A. I have reviewed hundreds and
17 hundreds of tax returns for all sizes of
18 businesses and small businesses.

19 Q. Did these deductions for
20 business expenses appear to be typical to
21 you?

22 A. I can't answer that. I don't
23 know what the type of business is. I don't
24 know anything about in company other than
25 it's called Digital Direct. So I can't

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1 tell you if it's typical, if it's -- if the
2 amounts are too high, if the expenses are
3 proper. I cannot answer that.

4 Q. Well, it says on Schedule B
5 that it's a camera and accessories company
6 and it sells products, right?

7 A. Okay.

8 Q. And I'm not asking you to opine
9 on the propriety of the amounts. I'm
10 asking you whether expenses listed here are
11 typical expenses of a small business.

12 A. It depends on the small
13 business. Some small businesses don't have
14 any expenses. Some small businesses
15 operate out of their house and they really
16 don't have any expenses. So it depends on
17 your definition of a "small business" and
18 how it's constructed and how many people
19 are there and what the owner does and how
20 it's operated.

21 So it just depends.

22 Q. What is an overflow statement?
23 Do you know what that is? Which is two
24 pages later. It's PDF 10 of 26.

25 A. Overflow statement?

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1 Q. That's the title at the top.
2 "1020-S, overflow statement." And then the
3 words shipping and freight, interest, legal
4 and professional, and supplies appear.

5 A. I do not know what the word
6 "overflow statement" means.

7 Q. All right, I've put into the
8 chat window the next exhibit which we've
9 marked Plaintiff's Exhibit 112, a tax
10 return for another company called Cameo
11 Distribution in 2018.

12 (Whereupon, Cameo Distribution
13 2018 Tax Return was marked as
14 Plaintiff's Exhibit 112 for
15 identification as of this date by the
16 Reporter.)

17 MR. HUFNAGEL: All right, we
18 have it up.

19 Q. Take a look through the
20 document, and then when you're ready I'll
21 ask you if this is one of the documents you
22 reviewed in connection with your rebuttal
23 report.

24 A. (The witness reviews the
25 document.)

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1 I've reviewed the document. Is
2 this one of the documents that I reviewed?
3 I probably reviewed the federal tax return
4 but not the city and state tax returns.

5 Q. Now, in this tax return can you
6 identify whether the company is reporting
7 on a cash or accrual basis?

8 A. Yes. The page number is cut
9 off. I think it's page -- let's see. I
10 think on page 4, Schedule K, item 1,
11 there's an X in the box for "accrual."

12 Q. Okay, so for Cameo
13 Distribution, in 2018 the company was
14 reporting on an accrual basis and not a
15 cash basis, right?

16 A. That's how it appears. And
17 when you say for 2018, it's for the fiscal
18 year ended November 30 of 2019. So this
19 return is on a fiscal year from December 1,
20 2018 to November 30, 2019.

21 Q. Okay, take a look if you would
22 at PDF 9 of Form 1125-E, "schedule of
23 officers."

24 MR. HUFNAGEL: Just restate
25 what page we're looking for.

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1 MR. MAGLIERY: I think it's PDF
2 page 9. I'm sorry, is that right.

3 A. 1125-E.

4 MR. HUFNAGEL: This is
5 compensation of officers, not
6 schedule of officers. I guess that's
7 why I was confused.

8 As long as we're on the same
9 page, I'm good. Compensation of
10 officers.

11 Q. Do you see that David Cameo is
12 named as an officer there?

13 A. Yes.

14 Q. Actually, if you go up another
15 page to Schedule G, "Information on certain
16 persons owning the corporation, the voting
17 stock." Am I correct that David Cameo owns
18 a hundred percent of the voting stock of
19 Cameo Distribution within this tax period?

20 A. I can't see it on the other
21 page because the column is cut off.

22 MR. HUFNAGEL: He's reviewing
23 the prior page, page 8, to see if
24 it --

25 A. Yes, a hundred percent. Yes,

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1 I'm sorry.

2 MR. HUFNAGEL: Restate your
3 answer because we were talking over
4 each other.

5 A. Okay, I'm sorry, what was the
6 question, please?

7 Q. I just asked if it was correct
8 that David Cameo is listed as owning a
9 hundred percent of the voting shares of
10 Cameo Distribution within the tax year of
11 the fiscal year you earlier named.

12 A. Schedule G of the Form 1120 for
13 that year reflects that David Cameo owns a
14 hundred percent.

15 Q. Now, did you speak to
16 Mr. Cameo -- withdrawn. Do you have any
17 understanding as to why Mr. Cameo accounted
18 for one company on a cash basis and a
19 different company on an accrual basis?

20 A. I did not ask Mr. Cameo about
21 that.

22 Q. I think you may have said
23 earlier that you were told that Jersey
24 Cameras 2 had purchase invoices at one time
25 but they were no longer available, is that

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1 correct?

2 A. I believe that was Mr. Cameo's
3 testimony.

4 Q. Do you know why they are no
5 longer available?

6 A. Mr. Cameo testified that he
7 didn't retain them.

8 Q. In your experience as an
9 accountant do you typically expect to see
10 financial documents retained for some
11 period of time?

12 A. You would usually expect to see
13 certain documents maintained for a period
14 of time.

15 Q. And is one of the periods that
16 may be relevant to that document retention
17 the time in which a company could be
18 audited?

19 A. Yes.

20 Q. Back to your report now, which
21 is Plaintiff's Exhibit 106. And I believe
22 we're on paper page 11, paragraph 19.

23 I believe you're discussing
24 here the terms on which Jersey Cameras
25 purchased goods from DDAM, Digital Direct

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1 and More. Do you see that?

2 A. Yes.

3 Q. And are you familiar with the
4 either agreement or testimony about the
5 arrangement for purchase of goods between
6 Jersey Cameras 2 and Digital Direct and
7 More?

8 A. I've read the testimony of Ari
9 Cameo and Mr. Cameo which discussed the
10 credit terms.

11 Q. You're aware that Mr. Bracco
12 has asserted that each time Jersey Cameras
13 2 obtained a receipt from Amazon, it paid
14 that money in nearly even amount or even
15 amount to Digital Direct and More, correct?

16 A. What do you -- can you explain
17 what you mean by "obtained a receipt"?

18 Q. Yes, was paid -- I'll ask it
19 again.

20 You're aware that Mr. Bracco
21 has asserted that whenever Jersey Cameras 2
22 was paid by Amazon, it paid that amount or
23 nearly that amount within the same day or a
24 few days to Digital Direct and More. I'm
25 not asking if you agree. I'm aware that

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1 that's what it says.

2 A. I am aware that that was in the
3 Bracco report.

4 Q. Are you aware that Bracco has
5 determined in his opinion that the entire
6 \$6.957 million paid by Amazon to Jersey
7 Cameras 2 was paid to Digital Direct and
8 More?

9 A. That's in his report.

10 Q. And did you undertake any
11 analysis of whether Jersey Cameras 2 would
12 receive money from Amazon and then pay it
13 out to Digital Direct and More?

14 A. Yes.

15 Q. And do you dispute or do you
16 agree that Jersey Cameras 2 would receive
17 money from Amazon and shortly thereafter
18 pay it to Digital Direct and More?

19 A. That's what the documents
20 reflect.

21 Q. So there's no dispute about
22 that happening, but you do have a
23 difference of opinion with Mr. Bracco about
24 why, correct?

25 A. I think so, yeah. I'm not --

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1 you know.

2 Q. Am I correct that you believe
3 that the amount received by Jersey Cameras
4 2 from Amazon was due to Digital Direct and
5 More because of the principal amount of the
6 merchandise sold plus the financing terms?

7 A. Can you repeat that, please?

8 Q. I can repeat it or I can ask a
9 different question.

10 Why do you think the amounts
11 that were paid to Jersey Cameras 2 by
12 Amazon were then paid to Digital Direct and
13 More?

14 A. Well, Mr. Cameo testified that
15 he was paying Digital Direct and More
16 because he had acquired inventory on credit
17 and was making a payment for that inventory
18 pursuant to other credit terms.

19 Q. Do you have an understanding of
20 what the credit terms were?

21 A. The credit terms based on the
22 testimony of Ari Cameo and David Cameo were
23 between two weeks and a month or whenever
24 Jersey Camera got paid.

25 Q. As a certified fraud examiner,

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1 what do you make of the fact that the
2 amount of interest on the transactions is
3 always equal to the amount -- withdrawn.

4 Do you understand whether
5 Mr. Cameo -- I'm sorry, withdrawn again.

6 Do you have an understanding of
7 whether Jersey Cameras 2 made a profit on
8 any of its sales through Amazon?

9 A. David Cameo testified that
10 there were profits; however, the profits
11 were never reflected because of the reserve
12 held back by Amazon.

13 Q. Should the general ledger
14 reflect sales proceeds due from Amazon?

15 A. No, because the general ledger
16 was on a cash basis and any sales proceeds
17 due from Amazon would be a receivable. And
18 that should not be reflected on the general
19 ledger based on the cash basis maintained
20 by the general ledger -- on the general
21 ledger.

22 Q. And therefore, the general
23 ledger also doesn't reflect any payable to
24 Digital Direct for interest due.

25 A. I don't understand what you

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1 mean "interest due." What does that mean?

2 Q. Well, what about the credit
3 terms?

4 A. Is that -- I don't understand
5 the interest referral. What interest are
6 you referring to?

7 Q. The trade credit extended by
8 Digital Direct to Jersey Cameras 2.

9 A. Oh, for the purchase?

10 Q. Yes.

11 A. Okay, I -- okay. Yes, the cash
12 basis general ledger does not reflect the
13 payable due to Digital Direct and More.

14 Q. There's no evidence in the
15 books and records of the company regarding
16 what profit, if any, Jersey Cameras made or
17 what amount was paid to Digital Direct for
18 credit as opposed to the wholesale price of
19 the merchandise, right?

20 A. The information is reflected
21 within the general ledger.

22 Q. How is it there?

23 A. It shows the cash received and
24 the cash paid out. So it's based on a cash
25 basis.

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1 Q. Right, okay, I think we might
2 be saying the same thing, but I don't know.
3 Is there any way to tell from the general
4 ledger whether Jersey Cameras 2 received a
5 profit on its sales of merchandise through
6 Amazon?

7 A. No, the cash basis general
8 ledger doesn't reflect receivables and
9 which would reflect revenue that has been
10 paid, and it doesn't reflect payables which
11 would reflect the purchases that haven't
12 been paid. So it doesn't include all the
13 transactions.

14 Q. Are you aware of whether Jersey
15 Cameras 2 ever made a profit during the
16 time of its existence?

17 A. I don't recall what Mr. Cameo's
18 testimony was about that.

19 MR. HUFNAGEL: Do you want to
20 take five minutes then?

21 MR. MAGLIERY: I just want to
22 finish asking these questions and
23 then we can take lunch.

24 MR. HUFNAGEL: That works.

25 Q. I just put into the chat box

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1 and shared what's been marked as
2 Plaintiff's Exhibit 113, which is the
3 transcript of the deposition of David Cameo
4 in this case on December 15th, 2022, which
5 was day 2 of his deposition.

6 (Whereupon, 12/15/22 Deposition
7 Transcript of Mr. Cameo was marked as
8 Plaintiff's Exhibit 113 for
9 identification as of this date by the
10 Reporter.)

11 Q. When you have it up, let me
12 know.

13 A. We have it up.

14 Q. Okay, great. If you could go
15 to page 18.

16 MR. HUFNAGEL: 18 on the PDF?

17 MR. MAGLIERY: No, I'm sorry,
18 18 at the bottom of the page, which
19 is actually also PDF 18 I think.

20 MR. HUFNAGEL: I got this new
21 Adobe, it doesn't tell me anything.
22 I think we're there.

23 Q. It's page 18 at the bottom.
24 Because the deposition was continued from
25 day-to-day, Mr. Lampert, at the top of the

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1 page it says page 272. So I'm at 272, and

2 starting at line 15 it says, "Question:

3 You had revenue from Amazon, right?

4 "Answer: Not personally.

5 "Question: So you mean

6 because Jersey Cameras 2 had the revenue?

7 "Answer: That's correct.

8 "Question: Okay, and then

9 what would happen with the profits that
10 were made from the sales?

11 "Answer: There were no
12 profits, it would constantly get
13 reinvested."

14 Do you see that?

15 A. Yes.

16 Q. Okay, so do you agree with me
17 that Mr. Cameo says there were no profits
18 from Jersey Cameras?

19 A. No.

20 Q. Okay, why not?

21 A. Just I don't -- I interpret
22 is -- you would have to go back I think to
23 the -- to the line of questioning to see
24 what they were talking about.

25 Q. Okay. I think it might be

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1 later in the deposition -- I'm speculating
2 about what you're interested in seeing, but
3 if you go to page 75 of the deposition,
4 there's another discussion about profits
5 and reinvestment.

6 A. I appreciate that, but I think
7 I can stick with this page.

8 Q. Go ahead.

9 A. My interpretation of this
10 testimony is that Mr. Cameo appears to
11 be -- I keep losing the page, I am sorry.

12 It appears that Mr. Cameo
13 appears to be talking about cash profits.
14 And he answered on line 22 that -- he
15 actually answers, the way I understand it,
16 that there were profits. But it appears
17 that he means that he didn't take out the
18 profits; that it got reinvested.

19 So from the way I understand
20 his testimony is that whatever profit they
21 had got reinvested and there was no profit
22 left at the end of the day. That's my
23 interpretation of the testimony.

24 Q. Let's go to page -- at the
25 bottom of page 75, it's deposition page

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1 329, let's try to understand whether there
2 were no profits distributed or whether
3 there were no profits.

4 A. Can you repeat the page again,
5 please?

6 Q. Yes. At the bottom of the page
7 it's going to say 75, and at the top of the
8 page it's going to say 329.

9 MR. HUFNAGEL: I'm sorry, we're
10 not finding the page, John. Restate
11 it for us.

12 Q. I can just share my screen if
13 that works. It's this one, page 329 at the
14 top, 75 at the bottom.

15 A. I'll see if I can find that.

16 Q. Or you can look at the shared
17 screen.

18 MR. HUFNAGEL: We got it now.

19 A. So it's page 325?

20 Q. 329.

21 A. Okay.

22 Q. And I'm going to begin at line
23 3. "Question: You never made money off of
24 the Jersey Cameras account before November
25 28?

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1 "Answer: No. I would have
2 made money if Amazon hadn't shut me down,
3 yeah.

4 "Question: But before
5 November 2018 did you ever make any money
6 from that account?

7 "Answer: No, we just
8 reinvested it constantly.

9 "Question: Why didn't you
10 ever take any profits?

11 "Answer: Because most of the
12 time Amazon was holding back money and I
13 had to pay Ari for the goods I owed him in
14 order for him to continue producing me."

15 Do you see that?

16 A. Yes.

17 Q. That doesn't indicate that
18 there are profits left over. It indicates
19 that there was money due to Digital Direct
20 and More, right?

21 A. It appears -- no, I don't agree
22 with everything -- I don't agree with that
23 statement. It looks like he's saying that,
24 and this is my interpretation of
25 Mr. Cameo's testimony, is that one of the

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1 reasons he didn't take any profits is
2 because he had to pay Digital Direct and
3 More, and because Amazon was holding back
4 money.

5 Q. Okay, right, not because there
6 were profits paid that he was, in quotes to
7 me at least, reinvesting, right? That's
8 not one of the reasons he lists.

9 A. Well, that's what he said. He
10 said he was reinvesting it. Now, I don't
11 know what "reinvesting" means in his mind
12 or in the way he was thinking. It could
13 mean -- I don't know what his intention was
14 or what his thoughts were with regard to
15 what does "reinvested" mean. So I can't
16 answer that.

17 Q. But you wrote an opinion about
18 it. But what I'm pointing out to you is
19 that he says, "I had to pay Ari for the
20 goods that I owed him." That's what he's
21 doing with the money, right? That's his
22 answer for why he doesn't have profits.

23 A. No. His answer that -- well,
24 he didn't say he doesn't have profits. He
25 said he didn't take any of the profits. He

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1 said because most of the time Amazon was
2 holding back money and I had to pay Ari.
3 So I think it's a combination of factors.

4 Q. Neither of those things are
5 things that involve profits, right? That's
6 not the company realizing more money than
7 it has in liabilities. It's money he owes.

8 A. Right, but I don't know what
9 Mr. Cameo's definition of "profit" is. So
10 it's harder for us -- it's hard for me to
11 guess.

12 Q. What's your definition of
13 "profit"?

14 A. Income less expenses equals
15 profit.

16 Q. Okay, so Mr. Cameo says that
17 all of the money he received from Amazon
18 had to be paid directly back to Digital
19 Direct and More because of the money he
20 owed Ari.

21 A. I don't see where it says "all
22 of the money." I see because most of the
23 time -- I see what you've asked me to look
24 at on page 329, but I don't see where
25 he's -- where Mr. Cameo is testifying that

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1 all the money had to go to Ari. I don't
2 see that. I don't see it right now in the
3 transcript.

4 Q. Okay, so if all of the money
5 didn't go to Ari, there were profits,
6 right?

7 A. Not necessarily.

8 Q. Why not?

9 A. I don't know if the money went
10 anyplace else.

11 Q. You looked at the books and
12 records of the company, right?

13 A. Yes.

14 Q. Where did it go? Every dollar
15 that was paid in was paid out to Digital
16 Direct and More. You already testified
17 that you agreed with that --

18 A. Yes.

19 Q. So it didn't go to anywhere
20 other than Digital Direct and More. And he
21 testified that all the money he paid to
22 Digital Direct and More was for money he
23 owed Ari, right?

24 A. Yes. Well, it was the money he
25 owed to Digital Direct and More. He didn't

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1 owe it to Ari.

2 Q. Okay, fair enough.

3 I think we're all ready for a
4 break. Let's go off the record and we'll
5 talk for a minute.

6 THE VIDEOGRAPHER: The time is
7 12:48 p.m. and we're going off the
8 record.

9 (Whereupon, a lunch recess was
10 taken.)

11 THE VIDEOGRAPHER: The time is
12 1:23 p.m. and we're back on record.

13 MR. MAGLIERY: Thank you.

14 By MR. MAGLIERY:

15 Q. Welcome back, Mr. Lampert. And
16 I'm sure you will acknowledge that you're
17 still under oath, right?

18 A. Yes.

19 Q. I think we're on to now
20 paragraph 25 of your report. If you could
21 take a look at Plaintiff's Exhibit 106,
22 which is your report, we'll go to page --
23 paper page 14, paragraph 25. Are you
24 there?

25 A. Yes.

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1 Q. Excellent, okay. Here you're
2 rebutting Mr. Bracco's conclusions about
3 the capitalization of Jersey Cameras and
4 you note that Mr. Bracco says Jersey
5 Cameras was not capitalized. And your
6 response is it was not necessary for any
7 capitalization of Jersey Cameras. Do you
8 see that?

9 A. Yes.

10 Q. And is it your opinion that
11 Jersey Cameras did not need to have any
12 capitalization?

13 A. Yes.

14 Q. And is the basis for that that
15 there were no identifiable expenses for
16 Jersey Cameras?

17 A. There were no identifiable
18 startup expenses. He worked out of his
19 home, didn't have any employees, didn't
20 need an office, didn't need any inventory
21 reserves. And therefore they didn't
22 require any capitalization.

23 Q. And in your experience as a
24 certified fraud examiner, if you
25 encountered companies when you were

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1 retained by the trustee that had no
2 capitalization, what would you do to
3 determine whether that was appropriate?

4 A. Well, it depended on the case
5 and the circumstances. It was common for
6 small companies not to have any
7 capitalization or to have very little
8 capitalization. It depended if
9 capitalization was an issue. It depended
10 upon how old the company was, when did the
11 company start. So it just depended on a
12 lot of different issues.

13 Q. Would you agree with me that if
14 the company was not capitalized, that means
15 that it was not investing excess funds in
16 new inventory?

17 A. I don't agree with that
18 statement.

19 Q. Why not?

20 A. Because I don't think the
21 capitalization has anything to do with
22 investing in new inventory. I don't know
23 what you mean by "investing," and I don't
24 think it goes together.

25 Q. Okay, well, wouldn't there need

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1 to be money in order to buy inventory in
2 advance as opposed to pay in arrears?

3 A. If that was necessary for the
4 company to buy inventory in advance, then
5 that may be necessary.

6 In this case it didn't appear
7 to be necessary as they relied on the
8 credit terms.

9 Q. All the inventory was paid for
10 in arrears, right?

11 A. I don't know if that's the
12 case. I just can -- I can't answer that.
13 I just know that based on the testimony of
14 Mr. Cameo.

15 Q. Well, that's what I'm asking.
16 I'm asking did you -- have you formed an
17 opinion that all of the inventory was paid
18 for in arrears based on the evidence that
19 you've reviewed?

20 A. Based upon Mr. Cameo's
21 testimony, he testified that he had to pay
22 the inventory which was in arrears most of
23 the -- I think it was all the time. I
24 don't recall exactly.

25 Q. Because the arrangement was

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1 that he would obtain inventory from Digital
2 Direct and More, offer it for sale on
3 Amazon, receive payment, and then pay back
4 Digital Direct and More, correct?

5 A. Yes.

6 Q. Now, there are few expenses for
7 a company that has no office space or
8 warehouse space, but have you ever seen a
9 company that has literally no expenses?

10 A. Not that I recall right now.

11 Q. And would you agree with me
12 that Mr. Cameo testified that he personally
13 went to Digital Direct and More warehouse
14 and shipped orders that were ordered on
15 Amazon?

16 A. I believe that was his
17 testimony.

18 Q. Okay, and would you agree with
19 me that there is a cost associated with
20 shipping goods?

21 A. Yes.

22 Q. Would you agree with me that if
23 there is packaging for the goods, there's a
24 cost associated with that?

25 A. Yes. However, I don't know

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1 what his -- I don't recall if that was part
2 of his arrangement with Digital Direct and
3 More where he received certain benefits for
4 the arrangement, the exclusivity
5 arrangement, and Jersey Cameras didn't have
6 to pay rent. I don't know if they received
7 other types of benefits in connection with
8 that arrangement.

9 Q. Okay, but you have no
10 information that they did not have shipping
11 costs, right?

12 MR. HUFNAGEL: Rephrase the
13 question because I think you had two
14 "nos" in the same question, so let's
15 not confuse them.

16 Q. You could answer.

17 A. I haven't seen any information
18 that reflected that they had any shipping
19 costs.

20 Q. You haven't seen any
21 information that they recorded any shipping
22 costs, correct?

23 A. Correct.

24 Q. But do you have any information
25 that they did not incur any shipping costs?

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1 A. No.

2 Q. Did you ask Mr. Cameo why there
3 are no expenses related to shipping in
4 connection with Jersey Cameras' books and
5 records?

6 A. I don't recall if I asked him
7 that.

8 Q. As a certified fraud examiner,
9 did you exercise reasonable skepticism
10 regarding the absence of any expenses for
11 Jersey Cameras 2?

12 A. Yes, I spoke -- or I
13 communicated with Mr. Cameo and I asked him
14 about various expenses. And he told me
15 they didn't have any, or they didn't pay
16 any.

17 Q. Were you when you received his
18 answer cognizant of his potential motive
19 for covering up his own wrongdoing as
20 provided for in the CFE guidance?

21 A. I don't know if I agree that
22 there was any wrongdoing. I hadn't really
23 looked at that issue.

24 Q. As an accountant and as a
25 certified fraud examiner, did you find it

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1 believable that there were no costs related
2 to shipping, even though Mr. Cameo
3 testified that he personally went to the
4 Digital Direct and More warehouse, packaged
5 goods and shipped them?

6 A. That was his testimony, and it
7 was consistent with I think there was -- I
8 think Ari may have testified to that. So
9 it was consistent with sworn testimony.

10 Q. It was consistent that he did
11 it, but was it believable that he had no
12 shipping costs?

13 A. I had no reason not to believe
14 it.

15 Q. Well, you know that it cost
16 money to ship things, right? That's a
17 reason.

18 A. Right, I didn't ask him that
19 specific question, but it's possible that
20 it was part of his arrangement with Digital
21 Direct and More.

22 Q. Well, you would be engaging in
23 rank conjecture, right? There's no
24 evidence that any shipping costs were
25 included in any agreement with Digital

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1 Direct and More, right?

2 A. I don't recall. I don't recall
3 what the exact terms of the agreement was.

4 Q. Well, how do you explain the
5 fact that Jersey Cameras 2 had no shipping
6 costs as an expense on the company even on
7 a cash basis?

8 A. I can -- it's possible that as
9 part of his arrangement with Digital Direct
10 and More, Digital Direct and More paid for
11 the shipping cost.

12 Q. It's possible, but there's no
13 evidence of it, right?

14 A. It's possible -- right, I
15 haven't seen any evidence of it, but it is
16 possible.

17 Q. If you were examining this
18 company for a trustee in bankruptcy, you
19 would recommend that the shipping costs be
20 adequately accounted for, right?

21 A. It depends upon what the
22 purposes of the investigation was and what
23 the allegations were, if any. It just
24 depends on the circumstances of the case.

25 Q. Okay, what is, to the best of

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1 your understanding, an examiner under the
2 Bankruptcy Code 1104-C, what is the purpose
3 of that position?

4 A. Of an examiner?

5 Q. Yes.

6 A. It's to examine the books and
7 records and information in connection with
8 an investigation.

9 Q. And what are you investigating
10 when you're an examiner?

11 A. Depends upon what's in the
12 judge's order.

13 Q. What if the judge orders you to
14 determine if there was any debtor
15 misconduct?

16 A. Well, that's a very broad term.
17 I would try to get more definitive
18 description of what type of misconduct, and
19 then I would request the necessary
20 information so I could complete my
21 investigation.

22 Q. I put into the chat window and
23 shared what's been marked as Plaintiff's
24 Exhibit 114, which is your report as an
25 examiner in that R&J Pizza Corp. case that

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1 we had previously reviewed your letter of
2 appointment.

3 (Whereupon, Report of Examiner,
4 In re R&J Pizza Corp. was marked as
5 Plaintiff's Exhibit 114 for
6 identification as of this date by the
7 Reporter.)

8 MR. HUFNAGEL: All right, we
9 have it open and I'm handing that
10 over to Gary.

11 Q. Mr. Lampert, on page 4 -- paper
12 page 4, let me see if that's the same --
13 yes, page 4, you see the scope of the
14 examination.

15 I'm sorry, I should ask the
16 question. Do you see the scope of the
17 examination listed there?

18 A. Page 4?

19 Q. Yes.

20 A. Under the --

21 MR. HUFNAGEL: Under
22 examination?

23 A. Under examination?

24 Q. Yes. It says here that your
25 letter, the one we looked at before --

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1 A. Right.

2 Q. -- became the scope of the
3 examination, and one of the items in the
4 scope was determine if there was any debtor
5 misconduct.

6 A. Yes.

7 Q. So you've been involved in
8 examinations to determine if there's debtor
9 misconduct before, right?

10 A. Yes.

11 Q. Now, in this examination you
12 examined bank accounts, accounting system,
13 payroll and employees, general ledgers,
14 payroll tax, sales tax, cash payments to
15 employees, personal car leases, house
16 transactions. I think that's at least a
17 subset of what you examined. Do you
18 remember that?

19 A. Is that in the report? Can you
20 tell me what page that's on, please?

21 Q. I just flipped through the
22 report. We can go item by item to see what
23 they are.

24 Let's start on page 5.

25 A. I don't recall -- this was from

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1 2015, so I don't want to guess.

2 Q. Are you aware of whether you
3 have any other docketed expert reports in
4 any matter other than this one?

5 A. Yes.

6 Q. And how many are there?

7 A. One other.

8 Q. What is it?

9 A. Romania Investments. It's in
10 my CV.

11 Q. I understand that this might
12 have been a while ago, but I'm trying to
13 understand if this is emblematic of the
14 kind of undertakings you would make to
15 examine a debtor.

16 A. Okay.

17 Q. So I'm on page 5. One thing up
18 say on page 5 is, "Bank reconciliations
19 were not prepared by the debtor until
20 March 24, 2015. It looks like they have
21 received advice, the debtor in this case,
22 to prepare bank reconciliations going
23 forward on a monthly basis." Do you see
24 that?

25 MR. HUFNAGEL: Bottom of page

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1 5.

2 A. Okay, bank reconciliations were
3 not prepared. I do say that.

4 Q. And then it looks like the
5 debtor in this case received advice that
6 bank reconciliations will be prepared on a
7 monthly basis. Do you see that? On the
8 bottom of that page.

9 A. Yes. It says "pursuant to
10 Klinger's recommendation," I don't recall
11 what the role of Mr. Klinger was here and
12 how it impacts the report.

13 Q. Well, just go back one page,
14 ahead of that it says, "The firm of
15 Incorvaia & Associates provided accounting
16 services to the debtor for several years.
17 On March 9, 2015 Anthony Incorvaia advised
18 Wanda Borges of Borges & Associates that he
19 would not be able to provide additional
20 services to the debtor. On March 9, 2015
21 Borges advised that the firm of Klinger &
22 Klinger would be retained to provide
23 accounting services to the debtor. The
24 firm of Klinger & Klinger was retained
25 pursuant to court order date March 5 of

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1 2015." Do you see?

2 A. Yes.

3 Q. And it looks like they're the
4 new accountant for the debtor.

5 A. Yes.

6 Q. And you're reporting to the
7 court that bank reconciliations were not
8 prepared until March 24, 2015, but that the
9 new accounting firm, Klinger, has initiated
10 a procedure to prepare them on a monthly
11 basis.

12 A. Yes.

13 Q. Is that because preparing bank
14 reconciliations was a better practice than
15 not preparing bank reconciliations?

16 A. Yes. At that time in 2015,
17 yes, that was necessary.

18 Q. On the next page you report
19 that the debtor used a point of sale system
20 for recording of cash register
21 transactions. Do you see that?

22 A. Yes.

23 Q. And daily sales reports were
24 printed and reconciled to the cash sales,
25 charge card sales and bank deposits. Do

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1 you see that?

2 A. Yes.

3 Q. And then in the next paragraph
4 you conclude the information entered
5 Cascarino and the employee were incorrect
6 and incomplete.

7 A. Yes.

8 Q. Did you think it was a
9 criticism of the debtor that they enter
10 their transactions incorrectly and
11 incompletely?

12 A. Yes.

13 Q. And in fact, the new
14 accountants recommended hiring a bookkeeper
15 to make sure those entries were correct,
16 right?

17 A. Yes.

18 Q. The next page, page 7 I think,
19 there's something called a house account.
20 Do you remember what a house account was in
21 this context?

22 A. I don't recall.

23 Q. It says, "The debtor extends
24 credit to certain selected customers who
25 purchase goods on account, which are known

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1 as house accounts."

2 A. Yes, okay, I see that.

3 Q. And does that refresh your
4 recollection that the debtor in this case
5 extended credit to certain select
6 customers?

7 A. Yes.

8 Q. And you see where it says at
9 the last line, "The debtor did not properly
10 account for the house account sales and
11 collections could not determine the correct
12 unpaid amount due to the debtor"?

13 A. Yes.

14 Q. And you were advising the court
15 in the report that that is a criticism of
16 the debtor; that it could not properly
17 account for the unpaid amounts due to the
18 debtor, right?

19 A. Yes. Because they weren't able
20 to determine how much was owed by the
21 customers.

22 Q. And the unpaid amounts due to
23 the debtor is the same thing as a
24 receivable, right?

25 A. Yes.

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1 Q. And then page 8, "findings,"
2 you say -- I'm in number 1, you say, "Some
3 of the sales information is inconsistent
4 with other records. The cash balances
5 reported were incorrect as the bank
6 accounts were not reconciled," right?

7 A. I'm sorry, where are you under
8 "findings"?

9 Q. Number 1, "Analysis of the
10 debtor's monthly operating report."

11 A. Yes, I see that information.

12 Q. And you were advising the court
13 that you thought it was in need of
14 remediation that the cash balances were
15 incorrect as the bank accounts were not
16 reconciled, right?

17 A. Well, here I'm talking about
18 the monthly operating reports. And I was
19 advising the court that the information
20 within the monthly operating reports were
21 incorrect because the bank accounts were
22 not reconciled.

23 Q. Okay, and the next paragraph
24 says that the bookkeeper is going to
25 correct errors and prepare monthly bank

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1 reconciliations, right?

2 A. Yes.

3 Q. And so did you tell the court
4 this because it's you think an improvement
5 in the debtor's accounting to make sure
6 there are no errors and that the bank
7 accounts are reconciled?

8 A. I told the court that they made
9 arrangements to cure the errors that I
10 highlighted in the report.

11 Q. And I'm going next to page 11,
12 letter F.

13 A. Which letter, I'm sorry?

14 Q. F, as in Frank.

15 A. Okay.

16 Q. The title is "Issued checks
17 returned due to insufficient funds." And
18 it says, "The debtor issued numerous checks
19 which were returned due to insufficient
20 funds and incurred over \$30,000 of related
21 bank charges. Cascarino issued checks as
22 he relied on incorrect balances." Do you
23 see that?

24 A. Yes.

25 Q. And would you agree with me

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1 that that is a consequence of not
2 maintaining a ledger of checks issued but
3 uncashed?

4 A. No, this is the consequence of
5 not having bank reconciliations.

6 Q. Would you agree with me it's a
7 consequence of writing checks when you
8 think you have money to cover it, but in
9 fact the money's not there?

10 A. Yes, if a check is returned, a
11 check is returned because there aren't
12 sufficient funds to pay for it.

13 Q. And in this case, wasn't it
14 because Cascarino relied on incorrect
15 balances of what was available in his
16 accounts?

17 A. Yes, he relied on the incorrect
18 balances because the cash balances were not
19 reconciled and they were incorrect.

20 Q. And then page 14 you note for
21 the court, "Payment for personal car
22 lease." Do you see that?

23 A. Yes.

24 Q. If says, "Monthly lease
25 payments in the amount of \$783.03 were paid

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1 by the debtor for a car leased by
2 Cascarino." Do you see that?

3 A. Yes.

4 Q. And the fix, if you will, is
5 that the debtor's representatives advised
6 that the automobile will be returned to the
7 lessor within a few days. Do you see that?

8 A. Yes.

9 Q. Did you view it as an error
10 from an accounting standpoint for the
11 company to be paying a lease for a personal
12 use car?

13 A. No, that was not the issue.

14 Q. What was it?

15 A. That the debtor had an
16 automobile that was used for delivery and
17 pickup and they didn't need another car,
18 and to make lease payments on the other
19 car.

20 Q. Because the car was not for
21 company use; it was for personal use. It
22 says so right there in your heading, right?

23 A. I'm sorry, "payment for
24 personal car lease." It was a personal car
25 lease that he was using for -- that the

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1 debtor principal apparently was using for
2 business. I don't recall all the exact
3 details.

4 Q. Without the exact details, it
5 would be problematic if the company were
6 paying the lease for a personal use car,
7 right?

8 A. For a personal use car or
9 personal lease -- I didn't hear what you
10 said.

11 Q. Personal use car. Paying the
12 lease for a personal use car.

13 A. Well, this report doesn't
14 mention that it was for personal use. It's
15 just mentioned that it was a personal lease
16 and the car was used by the debtor for
17 deliveries and to pick up supplies.

18 Q. What does "payment for personal
19 car lease" mean?

20 A. It means that the -- it's
21 possible that an individual leased the car
22 and the debtor was making the payments for
23 the car lease.

24 Q. And that was something you
25 thought you should bring to the court's

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1 attention as an accounting error, right?

2 A. Not necessarily an accounting
3 error but something -- a transaction that
4 should be brought to the attention of the
5 court as it may not have been necessary to
6 pay for the car while they had another car
7 to use.

8 Q. Okay, and if there were no
9 deliveries needed as part of the business
10 of the company, it would be even more
11 problematic to pay for a personal car,
12 right?

13 A. I don't understand your
14 question.

15 Q. In this case you're saying that
16 Cascarino asserted that he used the car for
17 some business purposes, correct?

18 A. Yes.

19 Q. What would you -- and you
20 thought that was worth bringing to the
21 court's attention, correct?

22 A. Because they had another car at
23 their disposal to use.

24 Q. But they had a legitimate
25 business reason to use an automobile

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1 because they made deliveries, right?

2 A. Yes.

3 Q. And what if there were no
4 legitimate reason for the business to use
5 an automobile, would you still want to
6 bring it to the court's attention?

7 A. Well, if there was no
8 legitimate reason, I don't know if they
9 would have made the payments on the car by
10 the debtor.

11 Q. Let's say that they did though.
12 In my hypothetical the business is paying
13 for the car lease and there's no deliveries
14 associated with the company's business.

15 A. Well, there might have been --
16 the hypothetical there might be other
17 reasons, other business purposes why the
18 car was used. So it just depends on the
19 circumstances.

20 Q. What are legitimate business
21 reasons for a company to pay for an
22 automobile?

23 A. If it's being used in the
24 context of business, for business purposes.
25 To meet clients, to go to meetings, to go

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1 to customers. It just depends on the
2 circumstances.

3 Q. All right, let's go back to
4 your report, which is Plaintiff's
5 Exhibit 106. And I think we left off at
6 paragraph 25. I think we might have made
7 it to page 15. Paper page 15. Are you
8 with me?

9 MR. HUFNAGEL: Yes, we're here.

10 Page 15.

11 Q. So Roman iv, "Jersey Cameras
12 had no evidence to document \$7 million in
13 purported purchases of inventory." And you
14 write, "At the time of the purchase, Jersey
15 Cameras received documents related to the
16 purchase of inventory." Do you see that?

17 A. Yes.

18 Q. And what's the basis of that
19 statement?

20 A. The basis of that statement is
21 Mr. Cameo's testimony.

22 Q. Okay, no other basis though,
23 right?

24 A. No.

25 Q. You didn't review any purchase

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1 records for the inventory, right?

2 A. No, I did not.

3 Q. The next one is about rent.

4 The next one after that is Roman vi,

5 "Jersey Camera's transferred sales" -- I

6 beg your pardon, I'm getting tongue tied.

7 Let me try again. "Jersey Cameras

8 transferred sales receipts from Amazon to

9 DDAM with a few days." That's from the

10 Bracco report because it's in italics,

11 correct?

12 A. Yes.

13 Q. And you write, "Per Cameo

14 testimony, the payments to DDAM for the

15 purchases of inventory were made because of

16 the low profit margins and Amazon holds

17 back a reserve. So whatever you get from

18 Amazon you pay the supplier pursuant to

19 credit terms as the sales receipts were

20 received weeks after the purchase of the

21 inventory."

22 Do you see that?

23 A. Yes.

24 Q. What does that mean?

25 A. That's Mr. Cameo's testimony.

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1 Q. If the full amount of the money
2 from Amazon is transferred back to DDAM,
3 it's not that there were low profit
4 margins; it's that the entire amount
5 received from Amazon covers the wholesale
6 cost of the goods plus whatever's owed on
7 the credit terms, right?

8 A. Not necessarily. It just
9 depends on the transaction.

10 Q. He says you'll pay the supplier
11 pursuant to credit terms, right?

12 A. Yes.

13 Q. They would receive goods from
14 DDAM, sell them on Amazon, receive a
15 payment from Amazon and remit the entire
16 amount back to DDAM, right?

17 A. Yes.

18 Q. Okay, and the testimony was
19 that they did that because they were paying
20 for the cost of the goods plus the credit
21 terms, right?

22 A. I don't know what you mean by
23 "plus the credit terms." I don't know what
24 that means.

25 Q. What did you understand the

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1 "credit terms" to be?

2 A. The credit terms are to mean
3 that there are -- that they have time to
4 pay the invoice. They have two weeks or
5 whatever the time period is. That's what I
6 understand the credit terms to be.

7 Q. Okay. So the term is just a
8 term in time, not a charge for the trade
9 credit?

10 A. I wasn't aware of any term or
11 any charge. I haven't -- I didn't note
12 that in the testimony or in any of the
13 documents.

14 Q. Okay, so that's illuminating.
15 So it's not that they were acquiring goods
16 from DDAM at wholesale cost, selling them
17 on Amazon, receiving money from Amazon and
18 paying back DDAM for the wholesale cost
19 plus some interest rate. That's not your
20 understanding.

21 A. Correct, that's not my
22 understanding.

23 Q. Okay, so let me ask you this.
24 Do you know what the purpose of a business
25 is?

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1 A. What the purpose of which
2 business?

3 Q. Of a business. Why do people
4 run businesses?

5 A. At the end of the day so that
6 they can make profit and take out some of
7 the profit.

8 Q. It's a profit-motivated
9 venture, correct?

10 A. Yes.

11 Q. So why would Jersey Cameras 2
12 buy, for example, a million dollars of
13 goods from DDAM, sell it on Amazon, receive
14 a million dollars back and send a million
15 dollars to DDAM? What would the purpose of
16 that be?

17 A. How has it been established
18 that the cost of the inventory is the same
19 as the sales price?

20 Q. Ah, okay. So what is the
21 cost -- what's your understanding of the
22 cost of the goods from DDAM?

23 A. The cost was discounted by DDAM
24 pursuant to the agreement. Based upon --
25 it was discounted based on a certain

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1 percentage.

2 Q. And then would Mr. -- would
3 Jersey Cameras sell the goods at a retail
4 price that is greater than the cost that
5 they acquired the goods from DDAM?

6 A. It's possible. I don't recall
7 any testimony with regard to that, but that
8 is possible.

9 Q. And then Amazon would pay
10 Jersey Cameras and it would remit and even
11 some back to DDAM. You've already
12 testified that you agreed with Mr. Bracco
13 that essentially all the money that came in
14 from Amazon was paid to DDAM, right?

15 A. It went to Jersey Cameras.
16 Most of the -- yes, at the end of the day
17 most of the money went to DDAM.

18 Q. And when we say "most" here
19 we're talking about on the magnitude of \$7
20 million, off by no more than a few hundred
21 dollars.

22 A. I don't remember the exact
23 amount, but it was -- I don't recall the
24 exact amount. But it wasn't -- I don't
25 recall the exact amount.

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1 Q. They were materially the same,
2 the amount received from Amazon by Jersey
3 Cameras and paid to DDAM by Jersey Cameras,
4 right?

5 A. Yes.

6 Q. Now, what is the likelihood in
7 your view that whatever the retail
8 remissions were from Amazon every two weeks
9 was the exact amount due back to DDAM every
10 two weeks?

11 A. I don't know if that's what the
12 testimony was. I don't know if that was
13 the exact amount or they just paid them as
14 much as they could.

15 Q. Why would they just pay them as
16 much as they could? Shouldn't they pay
17 them what they owe them?

18 A. Yes.

19 Q. And so you've been at this for
20 43 years, you've examined over 500
21 companies. What are the chances that every
22 two weeks the amount of income, the amount
23 of receipts for a company is the exact
24 amount you owe for the cost of goods sold?
25 Have you ever seen a scenario like that

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1 before in any other case you've ever looked
2 at?

3 A. It hasn't been determined that
4 that was the exact amount that they owed.
5 It's been determined that they made a
6 payment that was on -- due to the fact that
7 there was money owed. It hasn't been
8 determined that that was the exact money
9 that was owed.

10 Q. How would we know the exact
11 money owed?

12 A. You'd have to get an accounting
13 from both parties, from the companies to
14 see what was paid and what was owed at each
15 particular date.

16 Q. Did you undertake to do that?

17 A. No.

18 Q. Are there any records that
19 would show how much is owed from Jersey
20 Cameras to Digital Direct and More, as far
21 as you know?

22 A. I don't know.

23 Q. I'm not sure I understand that
24 answer. I'm asking as far as you know, are
25 there any records that show the amount owed

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1 by Jersey Cameras to Digital Direct and
2 More?

3 A. I am not aware of any of those
4 records.

5 Q. Did you ask Digital Direct and
6 More whether it had any records that would
7 show the amount due from Jersey Cameras 2?

8 A. No.

9 Q. Did you speak to Ari Cameo in
10 connection with your expert engagement?

11 A. No.

12 Q. If you were retained by the
13 trustee in bankruptcy to review the
14 business of Digital Direct and More, would
15 you -- withdrawn.

16 If you were retained by the
17 trustee in bankruptcy to review the
18 business of Jersey Cameras 2, would you
19 find that the fact that every receipt from
20 Amazon was transferred to Digital Direct
21 and More a fact that you would bring to the
22 court's attention in a report?

23 A. It depends on the circumstances
24 and what I uncovered in my investigation.

25 Q. Let's say debtor misconduct was

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1 one of the scopes of your investigation.

2 A. I'm not aware that this was
3 any -- I'm not aware that the transactions
4 you mentioned comprise debtor misconduct.

5 Q. I'm not asking you to form an
6 opinion about that. I understand you're
7 retained by Mr. Cameo. I'm asking would
8 you bring that fact to the court's
9 attention like you brought other facts to
10 the court's attention in the pizza case?

11 A. In the pizza case I was
12 appointed as an examiner with regard to --
13 asked to do specific things. It just
14 depends on the circumstances and what the
15 results of my investigation is.

16 Q. In how many cases right now are
17 you currently engaged by the trustee?

18 A. How many cases right now?

19 Q. Yes.

20 A. I don't recall the number. I'd
21 have to check my records.

22 Q. Is it more than ten?

23 A. Yes.

24 Q. Would you be comfortable with
25 me sharing your expert report in this case

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1 with all of those trustees?

2 A. Yes.

3 Q. You feel that you've acquitted
4 your obligation as a certified fraud
5 examiner with respect to Mr. Cameo?

6 A. I was not retained to
7 investigate Mr. Cameo. I was retained to
8 review and possibly rebut Mr. Bracco's
9 report. I was not brought in to examine
10 the transactions of Mr. Cameo or Jersey
11 Camera or Digital Direct and More.

12 Q. Do you believe that because you
13 were engaged to rebut Mr. Bracco's report,
14 the CFE standards go out the window, you
15 don't have to abide by them?

16 A. I did abide by the standards in
17 connection with my review and analysis of
18 the report and the books and records and
19 when I prepared my report.

20 Q. Okay, so let me ask again. If
21 you were examining Mr. Cameo retained by
22 the trustee, would you bring the fact that
23 every dollar that came in from Amazon was
24 sent back out to Digital Direct and More
25 within a day or two of receipt? Would that

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1 be an important fact to you?

2 A. I can't tell you based upon --
3 I'd have to get -- I don't know. It would
4 depend upon the results of my
5 investigation.

6 Q. Well, you are aware that being
7 an alter ego or a mere conduit for payment
8 is an indicia of fraud, right?

9 A. Are you asking me to render a
10 legal conclusion?

11 Q. I'm asking you whether you know
12 it's an indicia of fraud. You're a
13 certified fraud examiner. Is that
14 something you look for?

15 A. Alter ego issues?

16 Q. I'll ask a different question.

17 In your examinations is it
18 important to you in considering whether
19 fraud has occurred that all the money that
20 comes into a company immediately goes out
21 from the company?

22 A. It's possible. It might. It
23 depends upon the circumstances and the
24 explanation for the transactions.

25 Q. Have you ever heard the term

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1 "money laundering" before?

2 A. Yes.

3 Q. Do you know what money
4 laundering is?

5 A. Yes.

6 Q. Can you describe it?

7 A. Money laundering is when money
8 is transferred between entities or parties
9 to hide money or make it very hard or
10 impossible to trace.

11 Q. And as a certified fraud
12 examiner, does it concern you that there's
13 possibly money laundering when money is
14 transferred between and among 12 or 13
15 different companies and ultimately
16 distributed right back to one single
17 entity? Would that be something you would
18 want to investigate?

19 A. It depends on the circumstances
20 and the transactions and the explanation
21 and the documents to support the
22 transactions.

23 Q. Okay, let's get further into
24 the explanations then and we'll see whether
25 these explanations make any sense.

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1 Let's go to paragraph 30 of
2 your report. We're now talking about some
3 of the many other entities, only a few that
4 we were able to uncover that Mr. Cameo has
5 set up. You read his testimony that he
6 established new companies, acquired
7 existing Amazon third party selling
8 accounts and set up bank accounts on which
9 he was the sole signatory, right?

10 A. No. That's not my
11 understanding.

12 Q. What's your understanding?

13 A. My understanding is that he
14 assisted people, opened bank accounts, at
15 times he was the signatory and helped them
16 obtain an Amazon account so they can do
17 business with Amazon.

18 Q. Okay, I think we said the same
19 thing. He established the companies, he
20 acquired the third party accounts for the,
21 I think he called them his clients, and he
22 set up bank accounts on which he was the
23 sole signatory. Those are the three things
24 he said he did. Do you remember that?

25 A. I don't think he said he

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1 established the companies. I don't agree
2 with that terminology.

3 MR. MAGLIERY: Let's go off the
4 record for a minute. I'll find it.

5 THE VIDEOGRAPHER: The time is
6 2:12 p.m. and we're going off the
7 record.

8 (Whereupon, a short recess was
9 taken.)

10 THE VIDEOGRAPHER: The time is
11 2:18 p.m. and we're back on record.

12 BY MR. MAGLIERY:

13 Q. Mr. Lampert, I put into the
14 chat, it's taking a minute to load but it
15 will be there, the first day of Mr. Cameo's
16 deposition, which I've marked as
17 Plaintiff's Exhibit 115. It looks like it
18 just got uploaded.

19 (Whereupon, Deposition
20 Transcript of Mr. Cameo was marked as
21 Plaintiff's Exhibit 115 for
22 identification as of this date by the
23 Reporter.)

24 MR. HUFNAGEL: Sorry, hold on
25 one second.

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1 MR. MAGLIERY: Yeah, it took a
2 while, take your time.

3 MR. HUFNAGEL: We have the
4 file. Depending on what page you're
5 looking at, it may take us a few
6 minutes. Go ahead.

7 Q. I'm looking at PDF page 227,
8 which is also paper page 227.

9 A. Okay.

10 Q. You're welcome of course to
11 look at any part of the document you want,
12 but I'm asking Mr. Cameo about the
13 consulting service that he provided. And
14 then on page 227, line 7 I say, "Question:
15 And what was included in your consulting
16 service?

17 "Answer: Corporate
18 information. Set up the corporation
19 information, set up a bank account and
20 provide them with an Amazon account." Do
21 you see that?

22 A. Yes.

23 Q. Do you agree with me that
24 Mr. Cameo testified that he set up the
25 corporation, set up a bank account and

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1 provided them with an Amazon account?

2 A. That's in his testimony, yes.

3 Q. Now, back in your report,
4 talking about these sellers, these
5 consulting clients, you say the Bracco
6 report is incorrect -- sorry, I'm at
7 paragraph 30, which is on paper page 17. I
8 should have said that.

9 MR. HUFNAGEL: Of which --

10 MR. MAGLIERY: Of Mr. Lampert's
11 report.

12 MR. HUFNAGEL: Paper 17. We're
13 already on that. That's fine.

14 Q. Bracco says that "the entities
15 made disbursements to DDAM and do not
16 appear to have paid expenses or payroll
17 rent or office supplies based on their
18 analysis." And you say it's incorrect for
19 the following reasons. And you say, "Cameo
20 testified he provided services to these
21 entities to open bank accounts and obtain
22 Amazon accounts so they could sell goods on
23 Amazon. And he testified that he presumes
24 the payments from the entities are for the
25 purpose of merchandise." Do you see that?

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1 A. Yes.

2 Q. Why would Cameo have to presume
3 what the payments are for if he is the only
4 signatory on the checking account?

5 A. Well, he wasn't always the only
6 signatory on the checking accounts. I
7 think he testified that at least -- at
8 least one other situation, there was at
9 least one other signatory. And Mr. Cameo
10 testified that he would write checks based
11 upon the instructions of the owners of the
12 company.

13 And Mr. Cameo also testified
14 that it's not necessary to be a signatory
15 to be able to make transfers from the bank
16 account, as long as you had the login and
17 the password, which he -- I don't recall
18 exactly in which situation, but he said
19 that he provided that information so the
20 owner would be able to make those
21 transactions.

22 Q. And you found it credible that
23 Mr. Cameo did not know what the payments to
24 Digital Direct and More based on those
25 items you just recited?

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1 A. Mr. Cameo testified that he
2 recalls that it was probably for
3 merchandise.

4 Q. Is there any other indication
5 that you had from any book or record or
6 piece of information other than Mr. Cameo's
7 testimony for the reasons for the payment
8 to DDAM from the 11 entities?

9 A. Yes -- well, in the DDAM
10 general ledger the payments from the 11
11 entities were recorded as merchandise sales
12 by DDAM, which would indicate that they --
13 the -- the monies from the 11 entities were
14 based upon sales of something.

15 Q. Okay, and did you think that it
16 is -- withdrawn.

17 I think earlier you said you
18 had never seen another company whose
19 receipts and then payments were always of
20 even amount, like they were for Jersey
21 Cameras 2. Do you remember that?

22 A. When you say "even amounts,"
23 what are you referring to?

24 Q. The same amounts.

25 A. I don't recall that. I do not

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1 recall that, no.

2 Q. When you say you don't recall
3 it, you mean the earlier testimony or
4 seeing it in the past?

5 A. I don't recall seeing it in the
6 past on -- I don't recall seeing it in the
7 past.

8 Q. Okay, and then did it
9 increase --

10 A. Excuse me, can I -- no, I'm
11 done. I finished my answer, I'm good.

12 Q. Did it increase your interest
13 in that fact that the payments and the
14 receipts were of equal or nearly equal
15 amount, that there were 11 other entities
16 that Mr. Cameo began, also with no
17 expenses, that also received money from
18 Amazon and paid it out in the same amount
19 to DDAM? Was that material to you?

20 A. No, because based upon
21 Mr. Cameo's testimony, he explained it.

22 Q. But essentially the explanation
23 was in sum and substance, like Jersey
24 Cameras, every one of these accounts
25 received the exact amount of money they

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1 owed to DDAM and paid it to them
2 immediately, right?

3 A. Not necessarily. We don't -- I
4 don't know what was owed to DDAM at the
5 time of the payments.

6 Q. Okay, would you agree with me
7 that either they are breaking even or
8 operating at a loss under that analysis?

9 A. No, because we don't know what
10 the Amazon reserves are. So you'd have to
11 factor in the Amazon reserves, you'd have
12 to get the accounts receivable information
13 and the accounts payable information to
14 determine what the complete set of
15 transactions are.

16 Q. But Mr. Lampert, these are
17 operating on a cash basis, as you have
18 emphasized repeatedly. So on a cash basis
19 is it correct that they are either breaking
20 even or operating at a loss?

21 A. I never said they were
22 operating as a cash basis. I said that the
23 general ledger was maintained on a cash
24 basis. And if I said in my testimony that
25 they operated as a cash basis, I'd like to

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1 correct that. And my testimony is that the
2 general ledger is maintained on a cash
3 basis. With regard to Direct Camera.

4 Q. You also said that there's no
5 record of any payables or receivables or
6 inventory outside of the general ledger,
7 right?

8 A. I've said that I haven't seen
9 any of those records.

10 Q. And you certainly would have
11 asked for them because that was part of
12 your due diligence as a CPA and a CFE,
13 right?

14 A. Are you referring to the 11
15 entities or to -- which entity are you
16 referring to, please?

17 Q. Let's start with Jersey Cameras
18 2. You've already said you asked for the
19 documents and you never got them, right?

20 A. Correct.

21 Q. So there's no evidence that
22 there's any unrealized amounts other than
23 what's being kept on the cash general
24 ledger, right?

25 A. No, we -- no, it's possible

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1 that there were documents to support the
2 transactions. And they are not available
3 right now.

4 Q. And why would they not be
5 available?

6 A. Because they weren't retained.

7 Q. Okay, so as we sit here today
8 there's no evidence of any receivables or
9 payables or inventory -- we've been through
10 it before. There's nothing in Mr. Cameo's
11 testimony on that point, right?

12 A. Mr. Cameo's testimony and
13 Mr. Bracco's report which refers to --
14 which may refer to the credit terms. And I
15 don't recall what the agreement with Amazon
16 was which indicated that they would be
17 paid -- there would be a certain hold-back.

18 It's possible that the Jersey
19 Cameras agreement with Amazon could be a
20 piece of evidence that may recite the terms
21 and the payment arrangements with regard to
22 Jersey Cameras and Amazon. And if Amazon
23 is holding back money or holding back a
24 reserve, that might create an accounts
25 receivable situation that's not reflected

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1 on the general ledger.

2 Q. Okay, so the entirety of the
3 possibility for profitability for Jersey
4 Cameras 2 is in the Amazon hold-back,
5 right?

6 A. That's part of it, yes.

7 Q. Isn't that all of it?

8 A. We also don't have the other
9 side of the -- we also don't have the
10 payable side. So we don't know -- I don't
11 have any documents or seen any documents
12 with regard to what may be owed and unpaid
13 which would affect the profitability at any
14 point in time.

15 Q. I understand, and I'm just
16 trying to kind of set some bookends for the
17 possibility.

18 So I think what you said is
19 either Jersey Cameras 2 is remitting the
20 dollars owed to Digital Direct and More
21 exactly or something less than what is
22 owed. Those are the two possibilities you
23 gave me. They're not paying more than what
24 they owe, right?

25 A. I don't know. I haven't -- I

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1 don't know if -- I don't know if that's a
2 possibility.

3 Q. Well, we read Mr. -- again,
4 it's really getting repetitive now. We
5 already looked at Mr. Cameo's testimony and
6 he said that's what he did, right? I can
7 show it to you again but it's earlier in
8 the transcript. It's going to look really
9 silly.

10 Do you remember we looked at
11 the transcript and he said I'm remitting
12 money to Digital Direct and More based on
13 what I owe and the credit terms? Do you
14 remember that?

15 A. Yes, that's what he said at
16 that particular time with regard to that
17 particular question. Yes.

18 Q. Okay, so if that's the case, if
19 he's remitting money that's owed to Digital
20 Direct and More and it's either what he
21 owes or somehow short of what he owes, the
22 only other money out there is the Amazon
23 hold-back, right?

24 A. Probably.

25 Q. That would be where the company

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1 would become profitable if that money were
2 somehow released.

3 A. Well, again, you'd have to also
4 examine the purchase side. And we don't
5 know if there was any money that was owed
6 to DDAM at that time.

7 Q. It could become profitable or
8 it could not, depending on what else is
9 owed.

10 A. Right. And all I'm aware of,
11 so there may be other issues or
12 transactions that I am not aware of that
13 might affect the profitability.

14 Q. Right, but again, there's no
15 information about any other transactions,
16 right?

17 A. Well, also keep in mind that
18 we've only examined one bank account of --
19 we're only talking about one bank account
20 of Jersey Cameras and for a limited amount
21 of time. I don't know if they had other
22 bank accounts. And that might affect the
23 profitability, so I don't know if we're
24 talking about all the transactions for
25 Jersey Cameras.

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1 Q. Do you believe that you were
2 provided access to all the documents that
3 were produced in the case?

4 A. Yes.

5 Q. Do you have any reason to think
6 you haven't seen all of Jersey Camera's
7 bank accounts?

8 A. No.

9 Q. Did you ask Mr. Cameo if there
10 was another Jersey Cameras 2 bank account?

11 A. I don't recall.

12 Q. If there were another bank
13 account, that would blow open the case and
14 show that Jersey Cameras 2 actually
15 recorded all of its expenses in the bank
16 account, you would bring that to our
17 attention in rebuttal to Mr. Bracco's
18 report, right?

19 A. If that was -- if that
20 happened, then that would be -- then I
21 would investigate it and include the
22 information that would be necessary in my
23 report.

24 Q. And you don't have any of that
25 information as you sit here today, right?

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1 A. I do not.

2 Q. Now, back to paragraph 30 of
3 your report, in addition to Jersey Cameras
4 2, I think this is where we left off, there
5 are 11 other entities that also have no
6 payroll, rent, office or supplies, but that
7 remit the amount they receive from Amazon
8 back to Digital Direct and More within a
9 day or two of receiving it, right?

10 MR. HUFNAGEL: Objection, but
11 you can answer if you can.

12 A. That's my recollection, yes.

13 Q. Mr. Cameo is at the least one
14 of the, if not the only, signatory on the
15 Jersey Cameras 2 and all of the 11
16 accounts, right?

17 A. That's what he testified to,
18 yes.

19 Q. Your conclusion is it does not
20 appear the 11 entities operated as a
21 conduit for which proceeds from the sale of
22 goods on Amazon.com floated to DDAM and
23 other entities. Do you see that?

24 A. Yes.

25 Q. What's the basis of that

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1 conclusion?

2 A. The basis is that it was not a
3 conduit, that based upon the testimony of
4 Mr. Cameo and the general ledger of DDAM,
5 it appears that the transfers from these 11
6 entities to DDAM were for the purchases of
7 products. And therefore it's not -- it
8 would not be a conduit.

9 Q. Okay, you're aware that Amazon
10 has sued Mr. Cameo for fraud in this case,
11 right?

12 A. I'm aware that he's been sued.
13 I don't recall the exact complaint.

14 Q. Well, have you ever been
15 involved in an adversary proceeding where
16 the plaintiff in the adversary proceeding
17 is seeking a ruling that debt cannot be
18 discharged because of fraud?

19 A. Yes.

20 Q. And I will represent to you
21 that that is this case. So knowing that
22 Mr. Cameo is accused of fraud, did you
23 think it was reasonable to rely just on
24 Mr. Cameo's testimony to come to the
25 conclusion that these 11 entities are not

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1 just conduits for payment to Digital Direct
2 and More?

3 A. I didn't rely just on
4 Mr. Cameo's testimony. I went to a
5 secondary piece of evidence, which is the
6 general ledger of Digital Direct and More
7 to see how these payments from the 11
8 entities were recorded in the general
9 ledger. And it was recorded that these --
10 the payments from these 11 entities to
11 Digital Direct and More were sales, which
12 would indicate that the payment to DDAM
13 were for the purchases of products.

14 Q. Okay, and I don't think anyone
15 has asserted that there were products being
16 sold by these companies. But what did you
17 make of the fact that for Jersey Cameras 2
18 and all 11 of the entities, every time they
19 got a payment from Amazon they sent up the
20 exact same amount to Digital Direct and
21 More?

22 In other words, let's stipulate
23 just for purposes of this deposition right
24 now that they were for merchandise sales.
25 So that's not in question. Let's just say

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1 for the immediate future they were for
2 merchandise sales. What did you make of
3 the fact that every dollar they got in from
4 Amazon they paid to Digital Direct and
5 More?

6 A. I can't answer that.

7 Q. Okay. Well, do you know what a
8 conduit is?

9 A. Yes.

10 Q. Is that a term you've used in
11 your own professional career?

12 A. Probably.

13 Q. And does it warrant further
14 investigation that these companies had no
15 financial transactions except for receipts
16 from Amazon and payments to Digital Direct
17 and More?

18 A. No, not necessarily because we
19 don't know if these companies had other
20 bank accounts that we don't know about.
21 We're only aware of the one -- of the bank
22 accounts that were maintained at this
23 particular bank. It's possible that these
24 companies had other accounts that were not
25 identified by Mr. Bracco or by Amazon. And

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1 then there are other transactions that we
2 don't know about.

3 Q. But Mr. Cameo testified that he
4 established the companies, set up their
5 bank accounts and found their Amazon seller
6 accounts for them, right? That's his
7 testimony. We just looked at it.

8 A. Yes, but it doesn't mean that
9 there aren't other bank accounts out there.

10 Q. Again, you're relying on rank
11 speculation, right? You have no evidence
12 that anything happened in these companies
13 other than receipts from Amazon and
14 immediate payments to Digital Direct and
15 More, right? That's the only evidence we
16 have.

17 A. The only evidence we have are
18 the bank statements.

19 Q. And what I --

20 A. And the bank records.

21 Q. And what I just said is what
22 happens in those bank statements, right?

23 A. Yes.

24 Q. There are many, many
25 possibilities of other things that can

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1 happen in the world, but we have no
2 evidence that the companies at issue have
3 any other statements or any other bank
4 accounts, right? We just don't know one
5 way or the other.

6 A. I agree with that, we don't
7 know.

8 Q. Let's go on to the next page of
9 your report, I think it's page 18, and the
10 opinion is that "Cameo personally
11 benefitted from funds transferred by Jersey
12 Cameras and other entities to Digital
13 Direct and More." And you say he's
14 incorrect.

15 There's descriptions on
16 paragraph 34 of why, but I think, correct
17 me if I'm wrong, but I think the essence of
18 the opinion is that it's not possible to
19 directly trace any particular receipts from
20 Digital Direct and More back to Mr. Cameo.
21 Is that the essence of what you're saying
22 here?

23 A. I'm saying that Mr. Bracco
24 didn't establish that the funds that came
25 from Amazon that went to Digital Direct and

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1 More that eventually were the subject of
2 the transfers were derived from the Amazon
3 payments to Jersey Cameras.

4 Q. And how would someone go about
5 showing that the same money in is the money
6 that goes out? How would you do that?

7 A. One way would be to trace the
8 funds.

9 Q. Mm-hmm. And how would you do
10 that in juxtaposition to how Mr. Bracco did
11 it?

12 A. I don't think Mr. Bracco did
13 it. At least he didn't mention that he did
14 it or attempted to do it. And he doesn't
15 address the tracing issue at all in his
16 report.

17 Q. Now, do you remember the year
18 that Mr. Cameo claims that he was no longer
19 a part owner of Digital Direct and More?

20 A. Yes.

21 Q. And what year was that?

22 A. 2018.

23 I'm sorry, did you say a
24 shareholder?

25 Q. Yes. No longer an owner.

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1 A. Right, 2018, yes.

2 Q. And then Mr. Cameo on behalf of
3 his company entered into the so-called
4 exclusivity agreement with Digital Direct
5 and More. Do you remember that?

6 A. Yes.

7 Q. Now, after the disassociation
8 of Mr. Cameo from Digital Direct and More
9 there would not be any reason that any
10 funds would be transferred from Digital
11 Direct and More to Mr. Cameo, right?

12 A. Not necessarily.

13 Q. Why? What are some
14 circumstances where he would be the
15 recipient of transfers from Digital Direct
16 and More?

17 A. When you say "transfers" to
18 Mr. Cameo, what are you referring to?

19 Q. Any transfer from Digital
20 Direct and More to David Cameo.

21 A. Is that inclusive of the joint
22 account with his wife?

23 Q. Let's start with no, not
24 inclusive of that.

25 A. Well, after he -- so your

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1 question -- I'm sorry, can you just
2 rephrase the question?

3 Q. Yes. After Mr. Cameo was no
4 longer one of the owners of Digital Direct
5 and More, there would be no reason for him
6 to receive transfers from Digital Direct
7 and More, right?

8 A. Perhaps he -- I don't know.
9 There might have been other reasons for him
10 to receive transfers.

11 Q. He wasn't getting any profit
12 distributions anymore, correct?

13 A. Not that I'm aware of.

14 Q. He never said he rendered
15 services or provided any goods to Digital
16 Direct and More, right?

17 A. Let me correct my prior answer.
18 I'm not aware that he ever received any
19 profit distributions. And you said
20 "anymore" so I just wanted to clarify that.

21 Q. Okay.

22 A. Sorry, can you repeat the last
23 question?

24 Q. Yes. He didn't say he rendered
25 any services or sold any goods to Digital

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1 Direct and More, right?

2 A. I didn't see -- I don't think
3 he testified to that, right.

4 Q. Let's go to paragraph 35. I
5 think you've listed, or maybe Mr. Bracco
6 listed some specific examples of fund
7 transfers. Now, the first one is \$150,000
8 transfer on June 22, 2018 to a joint
9 account held by Cameo and Ostran. Do you
10 see that?

11 A. Yes.

12 Q. Mr. Bracco notes that that was
13 a transfer that was to David Cameo and
14 Shoshona Ostran personally. Do you
15 disagree with that?

16 A. Yes.

17 Q. Why?

18 A. I agree.

19 Q. And we already looked at the
20 tax return. Did you remember or should I
21 show again the tax return that Mr. Cameo
22 claims he's the 100 percent owner of Cameo
23 Distribution?

24 A. I recall the tax return.

25 Q. And do you remember that it

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1 noted David Cameo is the 100 percent owner
2 of Cameo Distribution?

3 A. For that particular tax return,
4 which might have been a different time
5 period than this transfer.

6 Q. Let's take a look. It's
7 Plaintiff's Exhibit 112.

8 MR. HUFNAGEL: All right, we
9 have 112 open.

10 Q. I think this has to do with the
11 fiscal year you were mentioning earlier.
12 Bear with me.

13 Okay, I've put into the chat
14 and I'm sharing what's been marked as
15 Plaintiff's Exhibit 116.

16 (Whereupon, Cameo Distribution
17 Tax Return 11/30/18 was marked as
18 Plaintiff's Exhibit 116 for
19 identification as of this date by the
20 Reporter.)

21 MR. HUFNAGEL: All right, we
22 have 116 open, which looks to be a
23 2017 tax return for Cameo
24 Distribution, Inc.

25 MR. MAGLIERY: Right. It's

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1 Form 1120 for Cameo Distribution.

2 Q. Mr. Lampert, can you tell from
3 this form what the fiscal year is covered
4 by the tax return?

5 A. For 1120, tax year beginning
6 December 1, 2017, ending November 30th,
7 2018.

8 Q. Okay, just to cover it for the
9 record, would you confirm that this lists
10 David Cameo as the 100 percent owner of
11 Cameo Distribution? It's on page 8 of 55.
12 PDF page 8 of 55 in Schedule G I believe.

13 A. Yes. According to 1120
14 Schedule G, this form reflects David Cameo
15 as 100 percent owner.

16 Q. Okay. Then just to get back to
17 where we were, Mr. Cameo therefore was the
18 only owner during the time of the \$150,000
19 transfer from Cameo Distribution to their
20 joint account on June 22, 2018, correct?

21 A. Yes.

22 Q. And then the next one was
23 \$18,000 to Lasko Getaways. And your
24 response is this transfer occurred several
25 months after Jersey Camera ceased

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1 operations in approximately December 2018,
2 right?

3 A. Correct.

4 Q. And does that -- does the fact
5 that Jersey Cameras had ceased operations
6 impact your view about whether this is a
7 personal transfer made to -- on behalf of
8 Mr. Cameo from Cameo Distribution?

9 A. No. The purpose of the comment
10 was that this was an example of that the
11 funds were not traced from Amazon camera
12 down to this transfer.

13 Q. Okay.

14 A. And since Amazon -- since
15 Jersey Cameras ceased operations four
16 months later, it's very highly unlikely
17 that this transfer was -- this \$18,000
18 transfer was derived from the funds that
19 originated from Amazon.

20 Q. Okay, I see. All right, let's
21 go to 36. The Bracco report does not
22 reflect that Cameo received a benefit from
23 the funds transferred to DDAM as follows.
24 And in the first one you list Cameo
25 Distribution disbursing approximately

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1 \$12,000 to Ray Catina Lexus. Do you see
2 that?

3 A. Which page are you on?

4 Q. Paragraph 26, the bottom, of
5 your report.

6 A. Okay, yes, I see.

7 Q. Do you see 36 iii?

8 A. Yes.

9 Q. And this was I think to support
10 the position that the Bracco report does
11 not reflect Cameo received a benefit from
12 the funds transferred to DDAM, right?

13 A. Yes.

14 Q. And the response is, "The
15 Bracco report acknowledges Ostran testified
16 she had a Lexus. And there's no
17 information Cameo benefitted from the
18 transfer," right?

19 A. Yes.

20 Q. What do you mean by that?

21 A. I mean that there's no evidence
22 or information that shows that Cameo --
23 David Cameo benefitted from this transfer.

24 Q. Okay, so David Cameo is 100
25 percent owner of Cameo Distribution, right?

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1 A. Yes.

2 Q. And he caused and is the only
3 person who could cause a distribution of
4 approximately \$12,000 to Ray Catina Lexus,
5 right?

6 MR. HUFNAGEL: Objection, but
7 you can answer.

8 A. I don't know who caused the
9 transfer. So --

10 Q. Who else could authorize the
11 transfer if he's the only owner?

12 A. Mr. Cameo testified that his
13 brother Ari would authorize transfers from
14 Cameo Distribution.

15 Q. Mr. Cameo, David Cameo is the
16 sole owner of the company, right?

17 A. Yes.

18 Q. If he takes a distribution from
19 the company, that's a distribution to him,
20 right? You can't distribute money to
21 non-owners of the company, right?

22 A. Well, we haven't established
23 that it's a distribution. It's a transfer.

24 Q. Was Ms. Ostran a creditor of
25 Cameo Distribution in the amount of

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1 \$12,634?

2 A. I don't know.

3 Q. Was she taking a loan from the
4 company?

5 A. I don't know.

6 Q. Any evidence that she paid back
7 the \$12,634?

8 A. I didn't -- don't know if it's
9 a loan. I don't know if it's -- I don't
10 know why the purchase was made -- why the
11 transfer was made.

12 Q. Okay, but you seem to tie it
13 together with Ostran saying that she drove
14 a Lexus, right?

15 A. Yes.

16 Q. You make the connection between
17 the \$12,000 coming from Cameo Distribution
18 to Ostran driving the Lexus from about 2018
19 to 2020.

20 A. Yes, and I think Mr. Cameo also
21 testified that his wife drove a Lexus.

22 Q. And was there any evidence in
23 the form of testimony or otherwise that the
24 Lexus was for some business purpose of
25 Cameo Distribution?

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1 A. No.

2 Q. Is the essence of your opinion
3 that Mr. Cameo didn't benefit from his wife
4 having a Lexus?

5 A. I don't know that he did
6 benefit, so there's no evidence or
7 information that shows that he did benefit.

8 Q. Do you think -- did you ask him
9 if he's ever ridden in the car?

10 A. No, I did not.

11 Q. Do you know whether he has
12 children?

13 A. I think he testified that he
14 has children.

15 Q. Did you ask whether the
16 children ever rode in the car?

17 A. I did not ask.

18 Q. How could someone not benefit
19 from having a car driven by their wife?

20 A. I don't see how he did that --
21 I don't see how he did benefit.

22 Q. Well, he must have agreed that
23 there could be a \$12,000 transfer, either a
24 profit distribution or something else out
25 of Cameo Distribution, right?

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1 A. Not necessarily. He testified
2 that Ari would take -- he would make
3 transfers and he would make transfers
4 because he was paying -- he was getting
5 repaid for capital contributions that he
6 made in prior years.

7 Q. Is that how capital
8 contributions work, that you can just take
9 them back whenever you want, in your
10 experience?

11 A. It depends on the agreement
12 between the shareholders at that time.

13 Q. And Mr. Cameo, David Cameo, was
14 the sole bank signatory for this account.
15 So one way or the other he had to cause the
16 transfer to happen, right?

17 A. Not necessarily. I don't know
18 if he provided Ari with the information so
19 that he could make an online transfer. I'm
20 really not sure.

21 Q. And taking money out of a
22 business that you're the hundred percent
23 owner of and sending it to your wife to buy
24 a car is not something that you think is a
25 personal benefit, is that right?

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1 A. It depends on the
2 circumstances. We haven't established that
3 the car wasn't for business purposes.

4 Q. What business purpose did
5 Shoshona Ostran have for Cameo
6 Distribution? She wasn't an employee,
7 officer, director or owner.

8 A. I don't know.

9 Q. None, right?

10 A. Not that I could think of right
11 now.

12 Q. Do you plan on testifying in
13 court about a transfer of \$12,000 to buy
14 David Cameo's wife a car is not for his
15 benefit?

16 A. I think my testimony is that it
17 hasn't been established that it's for his
18 benefit.

19 Q. What else would be needed to
20 establish a benefit, in your professional
21 view?

22 A. I'm not sure at this time.

23 Q. Let's look at the next one,
24 number 2, little Roman ii, "On March 15,
25 2018 \$5,000 was wired from Digital Direct

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1 to Park Place Dealership, done on March 26,
2 2018, Cameo Distribution transferred
3 \$73,046 to Digital Direct, and then that
4 same day Digital Direct wired that same
5 amount to Park Place Dealership." Do you
6 see that?

7 A. Yes.

8 Q. And Ari drives a Bentley that
9 he might have purchased from Park Place
10 Dealership. That was the testimony. I
11 think you cited it. Do you remember that?

12 A. Yes.

13 Q. Now, again, how could Cameo
14 Distribution make a transfer of \$73,000
15 without its sole owner and signatory
16 causing that transfer to happen?

17 A. Mr. Cameo testified that it was
18 for Ari and he was taking money out of the
19 company that he was entitled to.

20 Q. So that's a loan to the company
21 then, right?

22 A. Perhaps. I don't know how it
23 was characterized.

24 Q. Well, if it's capital and Ari
25 is removing capital from the company, were

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1 the capital accounts adjusted? Did you see
2 any documents that showed the capital
3 accounts were adjusted?

4 A. No, but I do see that it was
5 perhaps a repayment from Digital Direct and
6 More back to Cameo Distribution for the
7 same amount.

8 Q. I don't think so. There was a
9 \$73,000 transfer from Cameo Distributions
10 to Digital Direct. And then on the same
11 date, Digital Direct paid the dealership
12 the \$73,000.

13 A. Oh, okay, yes, you are correct.
14 I misread it.

15 Q. So just back to my question,
16 did you see any documents that showed that
17 the capital accounts were adjusted after
18 each one of these withdrawals for Ari?

19 A. No.

20 Q. And how could Ari have capital
21 in a company in which he's the zero percent
22 owner? Isn't being an owner a prerequisite
23 to owning capital in a company?

24 A. Mr. Cameo testified that Ari
25 was an owner.

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1 Q. Okay, so he lied on his tax
2 returns then.

3 A. What?

4 Q. So he lied on his tax returns.

5 MR. HUFNAGEL: Objection, but
6 you can answer the question. If you
7 can.

8 A. No, he didn't provide me a time
9 period that he was an owner. So I don't
10 know what time period Mr. Cameo was
11 referring to.

12 Q. But we looked at the tax return
13 for this time period, the time of this
14 transfer. And it shows that David Cameo is
15 the hundred percent owner, right?

16 A. Yes.

17 Q. And would you agree with me
18 that to own capital in a company means you
19 have to be one of the owners?

20 A. When you say "own capital,"
21 capital would come from one of the owners.
22 But if it was a prior transaction, then it
23 might be called something else.

24 Q. Right, like a loan for example,
25 right? This would all make more sense if

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1 it was a loan. But it's not capital
2 because you have to be an owner to invest
3 capital. Do you agree?

4 A. Yes.

5 Q. Okay, let's look at the next
6 one, little Roman iii on page 21. "On
7 March 13, 2018 Cameo Distributions
8 disbursed \$45,600 to Moore Lyons, Inc., a
9 jeweler located in Clifton, New Jersey.
10 And Cameo said he wasn't familiar with this
11 jewelry store and the Bracco report does
12 not reflect that Cameo received any benefit
13 from the transfer."

14 So what would you do as a
15 forensic accountant if you saw a \$45,000
16 jewelry purchase from a company that you
17 were examining? What would the next step
18 be?

19 A. Well, it depends what type of
20 company it was and what did they do.

21 Q. Let's say they sold cameras.

22 A. I would probably -- I may
23 request the supporting documentation for
24 the transfer.

25 Q. And in this case you have no

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1 reason to believe that this transfer was
2 not an ordinary course transaction, right?

3 A. I don't know. Mr. Cameo did
4 testify that at times they bought and
5 sold -- that Cameo Distribution bought and
6 sold jewelry. So I don't know if it's an
7 ordinary course with regard to business
8 purchase.

9 Q. And if this was a purchase of
10 jewelry for his wife, do you think that
11 would mean that Cameo received no benefit
12 from the transfer?

13 A. I don't see any benefit for
14 David Cameo if his wife received the
15 jewelry.

16 Q. So he causes a distribution.
17 He's the sole owner. So a distribution is
18 by definition a distribution to him, right?
19 He's the only one who could take profits
20 because he's the only owner. And he
21 designates for payment a jewelry store.
22 It's still income to him, right? He's got
23 to report that on his taxes. Do you agree?

24 A. We haven't determined how it
25 was classified on the records, whether it

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1 was a distribution or whether it was
2 something else.

3 Q. Well, what do you think the
4 appropriate classification would be if you
5 cause a large jewelry gift to be purchased
6 for your wife from money from your company?
7 How would you account for that?

8 A. It depends. It could be a
9 loan, it could be a distribution, it could
10 be something else. It could be
11 compensation. It could be something else.

12 Q. Let's say it's a loan, a
13 distribution or compensation. In any of
14 those cases it's to David, right?

15 A. Excuse me?

16 Q. In any of those three cases, a
17 loan, a distribution or compensation, it's
18 to David. He's just designated the money
19 to be paid to a jewelry store. He's the
20 one who's taken the money. It will have to
21 be accounted in some way as him as the
22 recipient, correct?

23 A. No. It could be a loan from
24 his wife.

25 Q. A loan, sorry?

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1 A. It could be a loan from his
2 wife.

3 Q. A loan from his wife.

4 A. Yes. A loan due from his wife.
5 If she received the consideration for the
6 transfer, it might be considered a loan to
7 his wife.

8 Q. Okay, and if he gave it to his
9 wife as a gift, as we know happened, then
10 would it be?

11 A. It would be another type of
12 transaction. It would be either a loan to
13 him or a distribution or some other type of
14 transaction.

15 Q. And if he took a distribution
16 from Cameo Distribution and purchased a
17 piece of jewelry for his wife and gave it
18 to her, under that scenario did he derive a
19 personal benefit from the transfer?

20 A. Yes.

21 Q. We're winding down. I
22 definitely have less than an hour.

23 MR. MAGLIERY: Brian, I'm sure
24 you're going to be able to make your
25 4:30. Do you want to take a last

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1 break here, five or six minutes, and
2 then we'll come back and do the final
3 stretch?

4 MR. HUFNAGEL: Yes, I think
5 that makes sense.

6 THE VIDEOGRAPHER: It's 3:09
7 p.m. and we're going off the record.

8 (Whereupon, a short recess was
9 taken.)

10 THE VIDEOGRAPHER: The time is
11 3:20 p.m. and we're back on record.

12 A. With regard to the last line of
13 questioning in connection with the purchase
14 of jewelry based on a disbursement from
15 Cameo Distribution, I just wanted to add
16 that it may be possible that Mr. Cameo
17 testified that Ari authorized the payment
18 in connection with monies that were -- may
19 have been owed to Ari for past capital
20 contributions.

21 Q. Right, and then I think we
22 agreed that only owners can own capital in
23 the company, correct?

24 A. Well, that's at that particular
25 time. I don't know if there were past

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1 capital contributions. I just wanted to
2 clarify that information.

3 Q. Okay, and while we were off the
4 record, did you have a conference with your
5 counsel?

6 A. Excuse me?

7 Q. While we were off the record,
8 did you have a conference with counsel?

9 A. No.

10 Q. Did you determine who received
11 the jewelry that was purchased by Cameo
12 Distribution?

13 A. No.

14 Q. Do you have any information
15 about that?

16 A. No.

17 Q. Do you have an understanding
18 that Cameo Distribution owed Ari Cameo some
19 amount of money?

20 A. I didn't hear all that. Can
21 you please repeat it?

22 Q. Did you have an understanding
23 that Cameo Distributions owed Ari Cameo
24 some amount of money?

25 A. No. It's based upon

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1 Mr. Cameo's testimony.

2 Q. All right, let's see, we'll
3 skip to page 22. Now I'm in Roman v, "The
4 Bracco report reflects the following. On
5 July 27, August 24th and October 23, 2018
6 Cameo Distribution disbursed \$721, \$721 and
7 \$750 respectively to BMW Financial." And
8 you write under it, "Cameo that his wife
9 used to have a BMW." Do you see that?

10 A. Yes.

11 Q. How are those two sentences
12 related?

13 A. That it doesn't appear that
14 Mr. Cameo received any benefit from the
15 transfers.

16 Q. Same idea as the Lexus
17 discussion we had, right?

18 A. Yes.

19 Q. Based exclusively on the fact
20 that it's his wife's BMW instead of his,
21 right?

22 A. Yes.

23 Q. For number 6 Bracco says that
24 "There were about \$769,000 of payments to
25 credit cards during the 2018 through April

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1 12, 2019 time frame, but he was not
2 provided sufficient documentation to
3 determine the nature of the charges." Do
4 you see that?

5 A. Yes.

6 Q. Did you have the ability to
7 review or analyze any of the charges on the
8 credit cards?

9 A. No.

10 Q. When you're undertaking an
11 examination of a company, do you -- for a
12 forensic review, do you usually seek to
13 review the credit card transactions?

14 A. It depends on the company, it
15 depends upon what's -- what's reflected in
16 the books and records, depends on the
17 amount of the transfers. It depends upon
18 communications with owners or employees or
19 accountants as to what the cards were used
20 for. It all depends.

21 Q. And then the next one,
22 Roman vii, Mr. Bracco says that there were
23 transfers from Digital Direct and Cameo
24 Distribution that may be related to the
25 purchase of four properties he identifies

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1 in the report.

2 And you say that "The Bracco
3 report does not reflect that Cameo was an
4 owner of the properties and does not
5 reflect that Cameo personally benefitted
6 except that a mortgage recorded on May 21,
7 2020 in the amount of \$335,600 made by
8 Citibank in connection with 366 Lake Avenue
9 lists Shoshana Ostran and Dave Cameo as
10 owners." Do you see that?

11 A. Yes.

12 Q. Am I correct that at least for
13 the \$335,600, you do acknowledge that there
14 is a potential personal benefit to Dave
15 Cameo as owner of that property?

16 A. It's possible. It doesn't --
17 it's possible. I don't know if he owned
18 the property or if he was just on the
19 mortgage. So there is the possibility,
20 yes.

21 Q. And what is the standard you're
22 applying for personal benefit when you say
23 that David Cameo has no personal benefits
24 for this and all of the foregoing jewelry
25 and car charges that we've discussed?

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1 A. He didn't derive anything from
2 the transfer.

3 Q. Okay, is that an accounting
4 doctrine or is it a CFE doctrine? Is it a
5 defined term that we can look somewhere to
6 see what a personal benefit is?

7 A. No. Just my understanding of
8 what the meaning of "personal benefit" is.

9 Q. If Cameo chooses to take money
10 out of its accounts -- if Cameo chooses to
11 take money out of his businesses and give
12 it to his wife, is that per se not a
13 personal benefit in your mind?

14 A. It might be.

15 Q. Might be a personal benefit or
16 might not be.

17 A. Both.

18 Q. And how would we determine
19 whether a personal benefit was derived from
20 a transfer to a business owner's spouse?

21 A. Well, did the business owner
22 receive any type of benefit or anything in
23 return for the transfer.

24 Q. And then is the accession to
25 wealth of your spouse a benefit?

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1 A. Possibly. But not necessarily.

2 Q. And is the increase of marital
3 affection or goodwill a possible benefit to
4 the business owner?

5 A. It might be a benefit. I don't
6 know how you quantify that.

7 Q. When you see -- in the ordinary
8 course of your work for trustees, when you
9 see transfers made to spouses, is that
10 relevant to your examination of forensic
11 review of debtors in bankruptcy?

12 A. It depends on the circumstances
13 of the case.

14 Q. Have you ever in your more than
15 500 engagements as trustee of bankruptcy
16 accounting services called to the court or
17 the trustee's attention transfers made to a
18 debtor, a debtor's principal's spouse?

19 A. Yes.

20 Q. And in what circumstances have
21 you found that to be relevant?

22 A. My recollection that it might
23 have been a no-show job.

24 Q. What's that mean?

25 A. That she was getting paid and

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1 she didn't work.

2 Q. Have you ever drawn to the
3 trustee or the court's attention transfers
4 to a business owner's spouse as a potential
5 way to shield assets from judgment?

6 A. Not that I recall.

7 Q. Do you have any guiding
8 principle as to whether money being paid to
9 one spouse or the other benefits both of
10 them or each of them?

11 A. No.

12 Q. Is there any professional
13 guidance on that point?

14 A. Not that I'm aware of. But to
15 answer -- just to go back to your prior
16 question, payment to one spouse doesn't
17 necessarily mean that the other spouse is
18 gonna receive any type of benefit.

19 Q. Are you aware of whether the
20 Cameos had any kind of prenuptial
21 agreement?

22 A. No. I am not aware.

23 Q. And are you basing that last
24 statement purely on the title to the asset
25 as opposed to the use of the asset, or does

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1 it matter?

2 A. The asset -- what's the asset?

3 Q. Whatever the thing is that's
4 inured to the benefit of the spouse, is
5 your opinion guided by who holds title to
6 the asset or who uses the asset, or both?

7 A. Probably both.

8 Q. Do you think that David Cameo
9 had a personal benefit from his home
10 because his wife was the owner and borrower
11 on the home and he lived there?

12 A. If he was living there and
13 didn't pay rent or didn't provide any type
14 of services in connection with his living
15 there, then he might have received some
16 type of benefit.

17 Q. I see.

18 24 we'll skip. I think we've
19 talked about some of these issues at the
20 beginning of the deposition in 25, 26, I
21 think we've covered all these items
22 previously.

23 Bear with me.

24 Okay, I think that's it. We
25 covered it all. Thank you so much for your

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1 time. I appreciate it. I have no further
2 questions.

3 MR. HUFNAGEL: Thank you.

4 We'll speak to you again on the case
5 in a few days.

6 MR. MAGLIERY: No questions
7 from you I take it. We'll close the
8 deposition?

9 MR. HUFNAGEL: No questions.

10 THE VIDEOGRAPHER: The time is
11 3:35 p.m. and we're going off the
12 record.

13 MR. HUFNAGEL: Just a written
14 transcript from me.

15 MR. MAGLIERY: We'll take the
16 video and the transcript.

17 (Whereupon, at 3:35 p.m. the
18 examination of this witness was
19 concluded.)

20

21

22 ° ° ° °

23

24

25

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1 D E C L A R A T I O N

2

3 I hereby certify that having been
4 first duly sworn to testify to the truth, I
5 gave the above testimony.

6

7 I FURTHER CERTIFY that the foregoing
8 transcript is a true and correct transcript
9 of the testimony given by me at the time
10 and place specified hereinbefore.

11

12

13

14 _____
GARY LAMPERT

15

16

17

18 Subscribed and sworn to before me

19

20 this _____ day of _____ 20____.

21

22

NOTARY PUBLIC

23

24

25

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1 E X H I B I T S

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16 (Exhibits accompany the transcript.)

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1 C E R T I F I C A T E

2 STATE OF NEW YORK)
3 : SS.:
4 COUNTY OF DELAWARE)

5 I, SUZANNE PASTOR, a Notary Public
6 for and within the State of New York, do
7 hereby certify:

8 That the witness whose examination is
9 hereinbefore set forth was duly sworn and
10 that such examination is a true record of
11 the testimony given by that witness.

12 I further certify that I am not
13 related to any of the parties to this
14 action by blood or by marriage and that I
15 am in no way interested in the outcome of
16 this matter.

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this day, October 30, 2023.

19

20



21

SUZANNE PASTOR

22

23

24

25

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1 *** ERRATA SHEET ***

2 NAME OF CASE: IN RE: DAVID CAMEO
DATE OF DEPOSITION: October 30, 2023

3 NAME OF WITNESS: GARY LAMPERT

4	PAGE	LINE	FROM	TO	REASON
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17	_____	_____	_____	_____	_____
18	_____	_____	_____	_____	_____

19

20

21 Subscribed and sworn before me

22 this____day of_____, 20__.

23 _____
(Notary Public)

My Commission Expires:

24

25

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